



Journal of the Senate

Number 23

Tuesday, June 3, 1986

PRAYER

The following prayer was offered by the Rev. Dr. Bob Gray, Pastor, Trinity Baptist Church, Jacksonville:

With grateful hearts, our Father, we come this morning in the name of our Lord and Saviour, Jesus Christ, and express our gratitude and thanksgiving for the liberties that we enjoy, for the concept of liberty that was embraced by our Founding Fathers in the Constitution. We pray this morning for our President, for the members of Congress, for our Governor, for our Senators and for our Representatives and we pray that each of them may be endowed with wisdom today. We ask, Lord, that they might have direction at your hand.

We pray that in these closing days of this legislative session that the pressure of all their responsibilities might not cause anyone of them to be less than fully responsible and totally dependent upon the wisdom of God for direction and for decision. We pray, our Father, that we might be mindful that our liberty is a gift from God and may we love you for it.

We ask today in the name of Jesus Christ that the word of God might be ever our guide and the Holy Spirit our informant. We pray in Jesus' name that you will bless this body today and make them conscious of God's presence with them. Make us mindful that one day each of us shall give an account before a righteous and a holy sovereign. Our Father, may our deeds and our behavior be consistent with that expectation. We ask this prayer in Jesus' name and for his sake. Amen.

CALL TO ORDER

The Senate was called to order by the President at 9:00 a.m. A quorum present—38:

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|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Kirkpatrick | Peterson |
| Barron | Girardeau | Kiser | Plummer |
| Beard | Gordon | Langley | Scott |
| Castor | Grant | Malchon | Stuart |
| Childers, D. | Grizzle | Mann | Thomas |
| Childers, W. D. | Hair | Margolis | Thurman |
| Crenshaw | Hill | McPherson | Vogt |
| Deratany | Jenne | Meek | Weinstein |
| Dunn | Jennings | Myers | |
| Fox | Johnson | Neal | |

Excused: Senator Neal, periodically, to work on the appropriations bill; Senator D. Childers at 11:15 a.m.

Excused: members of the various conference committees, periodically throughout the day

On motion by Senator W. D. Childers, by two-thirds vote SR 1332 was withdrawn from the Committee on Rules and Calendar.

Consideration of Resolutions

On motion by Senator W. D. Childers—

SR 1332—A resolution honoring Mary Anne Cannon Hartwell on her forthcoming retirement.

WHEREAS, a loyal and dedicated Senate employee, Mary Anne Cannon Hartwell, is retiring on December 31, 1986, after almost 20 years of service, and

WHEREAS, Senator Childers has found Mary Anne Hartwell's services as secretary invaluable, and he will miss her greatly, and

WHEREAS, her service to the Senate began with the special session of 1967, when she worked for Senator E. M. Johnson, and continued from 1967 through 1970 in the office of Senator C. S. Reuter, and has continued since 1971 in the office of Senator W. D. Childers, and

WHEREAS, her coworkers also appreciate her outstanding performance and her fidelity, sincerity, and efficiency, and will sorely miss her, and

WHEREAS, those who enter the office will miss her demeanor, which, in the words of a coworker, is "sweet as sugar - She makes a person think he's the only one who's been in the office all day long," and

WHEREAS, she knows the inner workings of the Senate and how to get things done and is extremely good at foreseeing upcoming legislative matters and seeing that the Senator is properly prepared for such events, and

WHEREAS, she is also the wife of Judge Donald O. Hartwell, Chief Judge of the Second Judicial Circuit, and the mother of two grown daughters, Susan and Sandra, and

WHEREAS, she is a graduate of Leon High School and the Florida State College for Women (now Florida State University), and

WHEREAS, Mrs. Hartwell has served the Senate well, is nearly irreplaceable, and will be missed by all, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate praises Mary Anne Cannon Hartwell for nearly 20 years of outstanding service to this body, during which her amiable personality, combined with her remarkable depth of knowledge and consistent competency, has graced the halls of the Old Capitol and the new Capitol.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the Senate affixed, be presented to Mrs. Hartwell as a tangible token of the sentiments of the Florida Senate.

—was taken up out of order by unanimous consent, read the second time in full and unanimously adopted.

The President requested Senator W. D. Childers to escort Mrs. Hartwell and her husband, Judge Donald O. Hartwell, to the rostrum where Mrs. Hartwell was presented a copy of the resolution.

On motion by Senator Thurman, by unanimous consent—

By Senator Thurman—

SR 1342—A resolution commending Florida's Congressional Medal of Honor recipients.

WHEREAS, the Medal of Honor, established by Joint Resolution of Congress on July 12, 1862, is awarded to persons who, while a member of the Armed Forces, distinguish themselves conspicuously by gallantry, at the risk of their life, above and beyond the call of duty, and

WHEREAS, the deed which is worthy of the award of the Medal of Honor must have been one of personal bravery or self-sacrifice which distinguished the individual above his comrades, and

WHEREAS, eleven Medal of Honor recipients currently reside in Florida, and

WHEREAS, William R. Charette, while serving as a hospital corpsman in the United States Navy during the Korean Conflict moved about through a murderous barrage of hostile fire to render assistance to his wounded comrades, and, when an enemy grenade landed within a few feet of a wounded soldier, he threw himself upon the stricken man to absorb the concussion; although receiving painful facial wounds and undergoing shock from the blast, he continued to administer medical aid to his unit and adjacent platoon areas as well, giving his own battle vest to an injured soldier and standing upright, in a trench line exposed to enemy fire, in order to more effectively aid an injured soldier, and

WHEREAS, George E. Day, while serving as a pilot in the United States Air Force during the Vietnam War, was captured by hostile forces after ejecting from his airplane over North Vietnam and was taken to a prison camp, interrogated, and severely tortured; he escaped and, despite his injured condition, moved southward, but was ultimately recaptured by the enemy, sustaining further injuries; despite his serious injuries, he continued to offer maximum resistance to the interrogations of his captors, and

WHEREAS, James R. Hendrix, while serving in the United States Army in Europe during World War II, was with the leading element engaged to break through to a besieged garrison; when halted by enemy fire, he dismounted from his halftrack and advanced against two 88-mm guns, compelling the guncrews to take cover and then to surrender; later in the attack he again left his vehicle to aid two wounded soldiers exposed to heavy machinegun fire; silencing two hostile machineguns, he held off the enemy by his own fire until the wounded men were evacuated; he later braved enemy sniper fire as well as exploding mines and ammunition from a burning halftrack to rescue a soldier trapped inside, and

WHEREAS, James H. Howard, while serving in the United States Army Air Corps during World War II, was the leader of a group of aircraft providing support for a bomber formation on a mission deep in enemy territory; when the bomber force was attacked by numerous enemy fighters, his force at once engaged the enemy; as a result of this attack, he lost contact with his group and returned to the level of the bomber formation, which was under heavy attack by enemy airplanes; with no other friendly fighter planes at hand, he singlehandedly attacked a formation of more than 30 German airplanes, attacking for approximately 30 minutes, during which time he destroyed three enemy airplanes and damaged others; toward the end of this period three of his guns went out of action and his fuel was dangerously low, but he continued his attacks in an attempt to protect the bombers, and

WHEREAS, Douglas Thomas Jacobson, while serving in the United States Marine Corps during the seizure of Iwo Jima during World War II, assumed the duties of a bazooka man who had been killed; when his platoon was halted by overwhelming enemy fire, he first destroyed two hostile machinegun positions, then attacked a large blockhouse, neutralizing it before dispatching the crew of a second pillbox and exploding the installation; moving forward, he wiped out a rifle emplacement and, confronted by a cluster of similar emplacements which constituted the perimeter of enemy defenses in his assigned sector, fearlessly advanced, destroying all six positions, enabling our forces to occupy the strong point; he then volunteered his services to an adjacent assault company, neutralized a pillbox holding up its advance, opened fire on a Japanese tank in a furious action culminating in a singlehanded assault against still another blockhouse and the subsequent neutralization of its firepower; he destroyed a total of 16 enemy positions and killed approximately 75 Japanese, thereby contributing essentially to the success of his division's operations, and

WHEREAS, Clyde Everett Lassen, while serving in the United States Navy as aircraft commander of a search and rescue helicopter during operations against enemy forces in North Vietnam, attempted a night rescue of two downed aviators; he piloted his aircraft over hostile terrain to a tree-covered hill on which the survivors had been located, initially landing in a clear area, but, due to the dense undergrowth, the survivors could not reach the helicopter; with the aid of flare illumination, he hovered between two trees at the survivors' position. Illumination was lost as the last of the flares were expended, and the helicopter collided with a tree; expertly righting his aircraft, he remained in the area and encouraged the survivors while awaiting resumption of flare illumination; after another unsuccessful rescue attempt, his fuel dangerously low and his aircraft damaged, he commenced another approach in the face of the continuing enemy opposition; when flare illumination was again lost, fully aware of the dangers in clearly revealing his position to the enemy, he turned on his landing lights and completed the landing, at which time the survivors were able to make their way to the helicopter, and

WHEREAS, David McCampbell, while serving in the United States Navy as commander, Air Group 15, during combat against enemy Japanese aerial forces in the first and second battles of the Philippine Sea, led his fighter planes against a force of Japanese aircraft bearing down on our fleet; striking fiercely in defense of our surface force, he personally destroyed seven hostile planes during this single engagement in which the outnumbering attack force was virtually annihilated; during a major fleet engagement with the enemy, assisted by but one plane, he intercepted and daringly attacked a formation of 60 hostile aircraft approaching our

forces; fighting desperately but with superb skill against such overwhelming airpower, he shot down nine Japanese planes and, completely disorganizing the enemy group, forced the remainder to abandon the attack before a single aircraft could reach the fleet, and

WHEREAS, Joseph Jeremiah McCarthy, was serving in the United States Marine Corps as commanding officer of a rifle company during the seizure of Iwo Jima in February, 1945, when the advance of his company was held up by enemy fire; organizing a demolitions and flamethrower team to accompany his rifle squad, he led the way across 75 yards of fire-swept ground, charged a heavily fortified pillbox and, personally hurling hand grenades into the emplacement as he directed the combined operations of his small assault group, destroyed the hostile installation; spotting two Japanese soldiers attempting an escape from the shattered pillbox, he stood upright in full view of the enemy and dispatched both troops before advancing to a second emplacement under greatly intensified fire and then blasted the strong fortifications with a well-planned demolitions attack; entering the ruins, he found a Japanese taking aim at one of our men and he jumped the enemy and disarmed and shot him with his own weapon; then, he rallied the remainder of his company and pressed a full attack until he had neutralized all resistance and captured the ridge, and

WHEREAS, John Mihalowski, while serving in the United States Navy as a member of the rescue chamber crew during the rescue and salvage operations following the sinking of the U.S.S. Squalus on May 23, 1939, made the last extremely hazardous trip of the rescue chamber to attempt the rescue of any possible survivors in the flooded after portion of the Squalus; he was fully aware of the great danger involved, in that, if he and the other member of the crew became incapacitated, there was no way in which either could be rescued; during the salvage operations, he made important and difficult dives under the most hazardous conditions; his outstanding performance of duty contributed much to the success of the operations, and

WHEREAS, Michael J. Novosel, while serving in the United States Army as commander of a medical evacuation helicopter during the Vietnam War, maneuvered his helicopter into a heavily fortified enemy area where a group of wounded Vietnamese soldiers were pinned down by a large enemy force; exposed to intense machinegun fire, he was able to locate and rescue a wounded soldier; he repeatedly circled the battle area, flying at low level under heavy fire, to attract the attention of the scattered friendly troops; on six occasions he was forced out of the area by enemy fire, only to circle and return from another direction to extract additional troops; near the end of the mission, a wounded soldier was spotted near an enemy bunker; fully realizing that he would attract a hail of enemy fire, he nevertheless attempted the extraction; as the man was pulled onto the helicopter, enemy weapons opened fire, damaged the aircraft and wounded Novosel; he momentarily lost control of the aircraft, but quickly recovered and departed under enemy fire; in all, 15 hazardous extractions were performed to remove wounded personnel; as a direct result of his selfless conduct, the lives of 29 soldiers were saved, and

WHEREAS, Ronald Eric Ray, was serving as a platoon leader in the United States Army during the Vietnam War, when three of his men were pinned down by fire from an enemy position; he silenced the enemy emplacement with a grenade and killed four Viet Cong with his rifle; as medics were moving a casualty toward a sheltered position, they began receiving intense hostile fire; directing suppressive fire on the enemy position, he moved close enough to silence the enemy with a grenade; a few moments later he saw an enemy grenade land, unnoticed, near two of his men. Without hesitation he dove between the grenade and the men, shielding them from the explosion while receiving wounds in his exposed feet and legs; he immediately sustained additional wounds from an enemy machinegun, but nevertheless he silenced the emplacement with another grenade; although suffering great pain from his wounds, he continued to direct his men, providing the courage and leadership they needed, and successfully led them from their surrounded position; only after assuring that his platoon was no longer in immediate danger did he allow himself to be evacuated for medical treatment, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That Florida's Congressional Medal of Honor recipients are commended for their heroic actions in service to their country.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the Senate affixed, be presented to William R. Charette, George

E. Day, James R. Hendrix, James H. Howard, Douglas T. Jacobson, Clyde E. Lassen, David McCampbell, Joseph J. McCarthy, John Mihałowski, Michael J. Novosel, and Ronald E. Ray as a tangible token of the sentiments of the Florida Senate.

—was introduced out of order and read the first time by title. On motion by Senator Thurman, SR 1342 was read the second time in full and unanimously adopted.

Senator Thurman introduced to the Senate the Medal of Honor recipients and at the request of the President, escorted them to the rostrum where they were presented copies of the resolution.

On motion by Senator Johnson, by two-thirds vote SR 1334 was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Johnson—

SR 1334—A resolution commending the Sarasota Concert Band and Tony Swain, its musical director, for outstanding cultural contributions to the state.

WHEREAS, the Sarasota Concert Band has enriched the cultural environment of the state by providing quality musical entertainment for almost 32 years, playing recent concerts at the Yale Club, Rotary Clubs, the Sarasota Kiwanis Club, Senior Citizens Day in Manatee County, the Manatee County United Way Kick-Off, the Sarasota Welfare Home, and the G. Pierce Wood Memorial Hospital in Arcadia, and

WHEREAS, Tony Swain, as its musical director, has guided the development of the Sarasota Concert Band since 1978, and

WHEREAS, Tony Swain is a respected member of the entertainment community, serving as the President of the Professional Alliance of the Performing Arts, a not-for-profit organization which includes the Sarasota Concert Band, the Asolo State Theatre, the Florida West Coast Symphony, the Jazz Club of Sarasota, and the Florida Studio Theatre, and serving as past U.S. vice-president of the International Quorum of Motion Pictures and Video Producers, and

WHEREAS, on July 4, 1986, the Sarasota Concert Band will come to be known as the Florida Symphonic Band, a name which better reflects the added stature these fine musicians have attained under the direction of Tony Swain, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Sarasota Concert Band and Tony Swain, its musical director, are commended for their cultural contributions to the state by providing quality musical entertainment for the people of Florida.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the Senate affixed, be presented to Tony Swain and the Sarasota Concert Band as a tangible token of the sentiments of the Florida Senate.

—was taken up out of order by unanimous consent, read the second time in full and unanimously adopted.

On motion by Senator W. D. Childers, the House of Representatives was requested to return SB 83.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Claims Calendar for Tuesday, June 3, 1986: SB 67, SB 164, SB 355, CS for HB 176, CS for HB 230, CS for HB 252, HB 258, HB 398, HB 596, CS for HB 857

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, June 3, 1986: SB 1221, SB 492, CS for SB 1239, CS for SB 624, CS for CS for SB 604, CS for CS for SB 103, SB 689, CS for CS for SB 978, CS for CS for SB 463, CS for CS for SB 607, CS for CS for SB 850, CS for SB 426, CS for SB 99, CS for SB 1145, SCR 9, CS for SB 62, CS for SB 32, SB 342, SB 1214, CS for SB 1206, CS for SB 410, CS for SB 312, CS for SB 931, HB 154, CS for CS for SB 670 and CS for SB 224, SB 651, SB 784, SB 572, CS for SB 863, CS for SB 450, SB 401

Respectfully submitted,
Kenneth C. Jenne, Chairman

The Committee on Appropriations recommends the following pass: HB 1210 with 2 amendments

The bill was referred to the Committee on Commerce under the original reference.

The Committee on Appropriations recommends the following pass: SB 774 with 2 amendments

The bill was referred to the Committee on Economic, Community and Consumer Affairs under the original reference.

The Committee on Appropriations recommends the following pass: CS for SB 511

The bill was referred to the Committee on Finance, Taxation and Claims under the original reference.

The Committee on Appropriations recommends the following pass: SB 805 with 2 amendments, CS for CS for SB's 218 and 219

The bills were referred to the Committee on Rules and Calendar under the original reference.

The Committee on Appropriations recommends the following pass: SB 26, SB 35, SB 69, CS for SB 75, CS for SB 81, CS for SB's 101 and 288, CS for SB's 126, 36 and 662 with 2 amendments, SB 149 with 1 amendment, CS for SB 369 with 2 amendments, SB 476 with 1 amendment, CS for SB 538, SB 552, SB 560 with 2 amendments, CS for CS for SB 600, CS for CS for SB 730, SB 762 with 2 amendments, SB 769 with 2 amendments, SB 869 with 10 amendments, CS for SB 901, CS for SB 962 with 2 amendments, CS for SB 1045, CS for SB 1108 with 1 amendment, CS for SB 1149, SB 1173, CS for SB 1231

The bills were placed on the calendar.

The Committee on Commerce recommends a committee substitute for the following: SB 1182

The Committee on Rules and Calendar recommends a committee substitute for the following: SB 235

The bills with committee substitutes attached contained in the foregoing reports were referred to the Committee on Appropriations under the original reference.

REQUESTS FOR EXTENSION OF TIME

June 3, 1986

The Committee on Appropriations requests an extension of 4 days for consideration of the following: Senate Bills 10, 11, 17, 28, 30, 42, 53, 63, 70, 79, 86, 88, 89, 106, 131, 132, 141, 148, 150, 156, 159, 163, 172, 185, 193, 229, 232, 244, 258, 263, 266, 267, 274, 276, 277, 291, 292, 296, 315, 324, 341, 354, 373, 381, 386, 414, 433, 438, 452, 459, 469, 470, 473, 489, 512, 519, 521, 533, 558, 565, 569, 573, 574, 577, 578, 583, 591, 603, 640, 649, 655, 661, 669, 671, 673, 696, 727, 736, 760, 763, 779, 786, 787, 791, 797, 800, 810, 813, 814, 817, 828, 831, 836, 837, 865, 881, 883, 884, 886, 922, 927, 930, 932, 957, 959, 970, 976, 982, 986, 1001, 1002, 1004, 1017, 1025, 1073, 1074, 1082, 1085, 1098, 1104, 1106, 1118, 1135, 1154, 1155, 1161, 1162, 1177, 1191, 1192, 1195, 1209, 1210, 1211, 1216, 1223, 1240, 1245, 1252, 1271; House Bills 35, 67, 780, 1004, 1187, 1194, 1382, 1389, 1390

The Committee on Governmental Operations requests an extension of 15 days for consideration of the following: Senate Bills 482, 1117; House Bills 197, 922, 1189, 1190, 1213, 1250

The Committee on Judiciary-Civil requests an extension of 15 days for consideration of the following: Senate Bills 48, 108, 124, 135, 175, 212, 302, 319, 340, 443, 496, 539, 635, 642, 648, 664, 733, 757, 781, 822, 835, 851, 857, 861, 862, 872, 882, 911, 951, 969, 984, 1039, 1076, 1099, 1109, 1167, 1248, 1258

INTRODUCTION AND REFERENCE OF BILLS

First Reading

By Senator Barron—

SR 1340—A resolution commemorating the 150th anniversary of Trinity Episcopal Church of Apalachicola, Florida.

—was referred to the Committee on Rules and Calendar.

By Senator Plummer—

SR 1341—A resolution commending the United States Navy.

—was referred to the Committee on Rules and Calendar.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Rules and Calendar and Senator Thurman—

CS for SB 235—A bill to be entitled An act relating to elections; creating s. 99.013, F.S.; requiring that certain candidates or public officers have only one declared residence and providing guidelines for determining residence; providing for investigation of violations by the Florida Elections Commission; amending s. 106.18, F.S.; requiring omission from the ballot of the name of any candidate found in violation of the residency requirement of law; amending s. 106.25, F.S.; granting the Florida Elections Commission authority to investigate, consider, and determine such violations; providing procedure; amending s. 106.26, F.S.; providing procedure; providing for judicial review; amending s. 114.01, F.S.; providing that a vacancy in office occurs upon failure of one to maintain the residency required; providing an effective date.

By the Committee on Commerce and Senator Crawford—

CS for SB 1182—A bill to be entitled An act relating to mortgage brokerage; prescribing educational requirements for licensing mortgage brokers and for renewal of such licenses; providing for applications and examinations; providing for permitting of persons, institutions, and schools offering or conducting courses in mortgage brokerage practice; providing for permitting of instructors of such courses; proscribing offenses; providing penalties; providing for issuance of certificates of proof of satisfaction of course requirements; providing exemptions; providing for future repeal and review; providing an effective date.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State the following bills which he approved on June 2, 1986: Senate Bills 1031, 238 and 283, CS for SB 870, CS for SB 207, CS for SB 208, CS for SB 352 and CS for SB 582

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed HB 53, CS for HB 217, HB 453, CS for HB 660, HB 659, CS for HB 718, House Bills 920, 987, 1020, CS for HB 1078, House Bills 1086, 1178, 1270, 1297, 1303, 1351; has passed as amended CS for HB 17, HB 24, CS for HB 26, CS for HB's 173, 410 and 661, CS for HB 375, HB 519, CS for HB 610, CS for HB 814, House Bills 819, 918, 1061, 1186, 1231, 1262, 1299, CS for HB 1313; passed as amended by the required Constitutional three-fifths vote of the membership of the House HJR 919, HJR 1305 and requests the concurrence of the Senate.

Allen Morris, Clerk

By Representative Lehtinen and others—

HB 53—A bill to be entitled An act relating to requirements for high school graduation; amending s. 232.246, F.S., providing that a course in speech and debate may be taken to satisfy a credit requirement in performing arts; providing an effective date.

—was referred to the Committee on Education.

By the Committee on Judiciary and Representatives Allen and Easley—

CS for HB 217—A bill to be entitled An act relating to the Old Keys Bridges located in Monroe County; providing for management of the bridges; providing legislative intent; providing methods for leasing the bridges; providing for certain provisions in the leases; providing that all leases of property shall be subject to all existing utility facilities located in, upon, over, or under the leased property; providing for future leases under certain conditions; providing factors for evaluating competitive proposals; providing for posting of certain notice; providing for severability; providing an appropriation; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

By Representative Silver—

HB 453—A bill to be entitled An act relating to local occupational license taxes; amending s. 205.033, F.S., which authorizes certain counties to impose an additional license tax, to revise the rate and distribution thereof; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Finance, Taxation and Claims.

By the Committee on Higher Education and Representatives Bronson and Reddick—

CS for HB 660—A bill to be entitled An act relating to education; directing the Postsecondary Education Planning Commission to study the feasibility of creating a 2-year agricultural education program; requiring a report to the Legislature; specifying contents of the study; providing an effective date.

—was referred to the Committees on Agriculture; Education; Rules and Calendar; and Appropriations.

By Representative Lombard and others—

HB 659—A bill to be entitled An act relating to financial audits; amending s. 11.45, F.S., allowing district school boards to select an auditor to perform an annual audit; providing for the presentation of the annual audit report to the superintendent of schools and the chairman of the school board in the district; providing for filing with the district school board and the Auditor General; providing an effective date.

—was referred to the Committees on Education; and Rules and Calendar.

By the Committee on Regulated Industries and Licensing and Representative Irvine and others—

CS for HB 718—A bill to be entitled An act relating to telephone companies; creating s. 364.339, F.S.; providing for shared tenant services; authorizing exclusive Florida Public Service Commission jurisdiction over this service; providing conditions under which the service may be authorized; exempting radio common carriers or cellular radio telephone carriers from commission regulation; providing for review and repeal; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Commerce.

By Representatives Bell and Morgan—

HB 920—A bill to be entitled An act relating to bond finance; creating the "Florida Local Government Bond Bank Act"; providing legislative intent; providing definitions; providing for powers of the Division of Bond Finance of the Department of General Services; providing for certain bonds and notes; providing penalties; providing for validation of certain bonds; providing for certain resolutions and indentures; providing for intent with respect to certain pledges of revenues; creating the Florida Local Government Bond Bank Trust Fund; authorizing the creation of the Florida Local Government Bond Bank Reserve Trust Fund; providing for certain additional reserves and funds; providing for remedies; providing for immunity; providing for bonds as legal investments and security; providing exemption from certain taxation; providing for insurance, letter of credit, or guaranty; providing for advisory statements; providing for the purchase of local government bonds; providing for remedies upon default; providing for the form of certain securities; providing for estoppel; providing for construction of the act; providing effective dates.

—was referred to the Committees on Economic, Community and Consumer Affairs; Commerce; Finance, Taxation and Claims; and Appropriations.

By Representative Hazouri—

HB 987—A bill to be entitled An act relating to insurance; amending s. 626.321, F.S.; providing for limited insurance agent licenses to transact industrial fire insurance or burglary insurance; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Allen—

HB 1020—A bill to be entitled An act relating to Monroe County; amending section 10 of chapter 76-441, Laws of Florida; providing that the Florida Keys Aqueduct Authority shall be considered a unit of government with jurisdiction in only one county for the purposes of compliance with ch. 120, F.S., the Administrative Procedure Act; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Governmental Operations; and Rules and Calendar.

By the Committee on Criminal Justice and Representative Hill—

CS for HB 1078—A bill to be entitled An act relating to Martin County; providing definitions; granting authority to the Board of County Commissioners of Martin County to enact ordinances relating to animal control or cruelty; providing for certain minimum provisions in animal control or cruelty ordinances; creating "animal control officers" to issue citations; requiring the issuance of citations for violation of animal control or cruelty ordinances; providing authority for the Board of County Commissioners of Martin County to enact animal control or cruelty ordinances not in conflict with state law; providing a penalty for the willful refusal to sign and accept a citation; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Shackelford—

HB 1086—A bill to be entitled An act relating to Hardee County; enabling the City of Wauchula to exercise its police power on city property located outside the corporate limits of the city and to otherwise enforce ordinances of the city and laws of the state therein; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Judiciary and Representatives Upchurch and Drage—

HB 1178—A bill to be entitled An act relating to claims against the state; amending s. 284.385, F.S., authorizing the use of structured settlement agreements; providing an exemption from competitive bidding; providing a limitation; providing for the payment of attorney's fees; providing an effective date.

—was referred to the Committees on Finance, Taxation and Claims; and Appropriations.

By the Committee on Judiciary and Representative Upchurch—

HB 1270—A bill to be entitled An act relating to criminal practices; creating chapter 772, F.S., to be known as the "Civil Remedies for Criminal Practices Act"; providing definitions; making unlawful the receipt of proceeds from certain criminal activities; requiring criminal intent; making unlawful the acquisition or maintenance through certain criminal activities of an interest in or participation in enterprises or real property; providing a civil cause of action to victims of certain criminal activities; providing for estoppel in certain civil actions against convicted persons; providing for admissibility of guilty verdicts; providing statute of limitations for certain civil actions; providing for suspension of statute of limitations under certain circumstances; providing for remedies to be nonexclusive; providing for election of cause of action by plaintiff; providing immunity from damages for governmental entities; providing for attorneys' fees to be taxed as costs; amending s. 812.035, F.S., limiting a civil remedy to the state; amending s. 895.05, F.S.; limiting a civil remedy to the state; clarifying right to jury trial; providing for priorities on forfeited properties; providing an effective date.

—was referred to the Committees on Judiciary-Criminal, Judiciary-Civil and Appropriations.

By the Committee on Judiciary and Representative Dunbar—

HB 1297—A bill to be entitled An act relating to political subdivisions of the state; amending s. 286.28, F.S.; clarifying the extent of waiver of sovereign immunity by political subdivisions which purchase liability insurance; providing an effective date.

—was referred to the Committee on Finance, Taxation and Claims.

By the Committee on Criminal Justice and Representatives Burke and Bloom—

HB 1303—A bill to be entitled An act relating to criminal mischief; amending s. 806.13, F.S.; prohibiting the destroying or substantial damaging of a public telephone and providing a penalty therefor; requiring the posting of conspicuous notice; providing an effective date.

—was referred to the Committees on Judiciary-Criminal and Judiciary-Civil.

By the Committee on Tourism & Economic Development and Representative Gallagher and others—

HB 1351—A bill to be entitled An act relating to enterprise zones; amending s. 220.181, F.S.; providing that certain tax credits for certain new employees continue to apply notwithstanding an expiration date relating to enterprise zone approval; amending s. 290.0055, F.S.; modifying the population limitation and zoning requirements for enterprise zones; amending s. 290.0065, F.S.; modifying the population categories in which enterprise zone applications are considered and the number of enterprise zones that may be selected; amending s. 290.015, F.S.; revising contents of a report to the Legislature and requiring consideration of the recommendations of the Auditor General; providing an effective date.

—was referred to the Committees on Commerce; and Economic, Community and Consumer Affairs.

By the Committee on Higher Education and Representative Easley—

CS for HB 17—A bill to be entitled An act relating to education; amending s. 232.2465, F.S.; renaming the Florida Academic Scholars' Program; amending s. 240.402, F.S.; renaming the Florida Academic Scholars' Fund; revising scholarship qualifications; revising administrative requirements; authorizing certain students to reapply; creating s. 240.408, F.S., the Challenger Astronauts Memorial Scholarship Program; providing for administration by the Department of Education pursuant to rules of the State Board of Education; providing eligibility criteria; providing for nomination; providing for award and requirements with respect thereto; creating the Challenger Astronauts Memorial Scholarship Trust Fund for the purposes of the program; creating the Christa McAuliffe Ambassador for Education Program to promote teaching as a profession; providing for the annual selection of an Ambassador for Education; providing program criteria; specifying award amounts; amending s. 240.4025, F.S., relating to the Florida Graduate Scholars' Fund; revising administrative requirements; revising eligibility period; amending s. 240.404, F.S.; specifying those financial aid programs to which residency requirements apply; amending s. 240.4045, F.S.; specifying that all male applicants for, or recipients of, financial aid must submit evidence of compliance with Selective Service System registration; amending s. 240.4068, F.S.; renaming the "Chappie" James Most Promising Teacher Scholarship Program; deleting a requirement that a percentage of scholarships be awarded to minority students; providing additional criterion for determining priority; specifying a maximum award amount; amending s. 240.465, F.S.; revising powers of Department of Education with respect to collection of delinquent accounts; including student loan notes and defaulted guaranteed loan notes; amending ss. 240.60 and 240.601, F.S., relating to the college career work experience program; expanding scope of employment to which the program applies; revising reporting date; revising eligibility periods; deleting citizenship requirements; amending s. 240.604, F.S., relating to the public school work experience program; revising percentage of funds that may be expended for student mentors; revising eligibility periods; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Representative Carpenter and others—

HB 24—A bill to be entitled An act relating to consumer protection; creating s. 501.059, F.S.; providing definitions; providing restrictions upon unsolicited consumer telephone calls to residences; prohibiting the making of unsolicited consumer telephone calls to certain subscribers; authorizing the Division of Consumer Services of the Department of Agriculture and Consumer Services to investigate complaints of violations and institute civil proceedings; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

By the Committee on Regulatory Reform and Representative Davis—

CS for HB 26—A bill to be entitled An act relating to talent agencies; providing for regulation of such agencies by the Department of Professional Regulation; providing definitions; specifying powers and duties of the department; providing for issuance of a license to such agency upon application and for denial, suspension, or revocation of license; providing for fees; providing for civil penalties for specified violations; specifying qualifications of applicants for license; providing for filing and posting of fee schedules; providing requirements for the content and the display of licenses; requiring talent agents to pay money to artists as specified; providing for license cancellation; requiring an applicant for license to provide bond; requiring maintenance of specified records; limiting registration requirements and fees; requiring a talent agency to provide an applicant with a contract that includes certain information; requiring the agency to give notice of labor disputes; requiring talent agencies to maintain a record sheet as specified; requiring talent agencies to maintain certain records; requiring specified records to be open for inspection; providing for posting of specified regulations; prohibiting the division of fees with certain specified individuals; providing for repayment of fees or expenses as specified; providing that certain acts are second degree misdemeanors and providing penalties; providing for injunctions; providing for deposit of moneys in the Professional Regulation Trust Fund; providing for future repeal and legislative review; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Appropriations.

By the Committee on Judiciary and Representative Lippman and others—

CS for HB's 173, 410 and 661—A bill to be entitled, An act relating to condominiums and cooperatives; creating ss. 718.1035 and 719.1035, F.S., providing that the use of a power of attorney that affects any aspect of the operation of a condominium or cooperative shall be subject to certain requirements; amending s. 718.111, F.S., authorizing the condominium association to take part in actions in eminent domain; revising language with respect to insurance; revising language with respect to official records; requiring certain financial reports; amending s. 718.112, F.S., revising language with respect to the annual budget of common expenses of a condominium with respect to reserve accounts for deferred maintenance; authorizing the acceleration of assessments under certain circumstances; providing for fidelity bonds; amending ss. 718.116 and 719.108, F.S., providing for priority of liens; amending s. 718.3025, F.S., relating to contracts for services or property for unit owners; amending s. 718.501, F.S., providing that the Division of Florida Land Sales, Condominiums and Mobile Homes adopt uniform accounting principles, policies and standards for condominiums; amending s. 719.104, F.S., providing for required official records with respect to cooperative associations; amending s. 719.106, F.S., revising language with respect to the annual budget of common expenses of a cooperative with respect to reserve accounts for deferred maintenance; repealing s. 718.302(1)(e); providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Judiciary-Civil.

By the Committee on Education, K-12 and Representative Arnold and others—

CS for HB 375—A bill to be entitled An act relating to the district school system; amending s. 231.02, F.S., requiring certain noninstructional personnel of the district school system and the Florida School for the Deaf and the Blind to file their fingerprints for state and federal processing; providing for costs; amending s. 235.056, F.S., relating to lease and lease-purchase of educational facilities; providing an effective date.

—was referred to the Committees on Education and Governmental Operations.

By Representative Messersmith—

HB 519—A bill to be entitled An act relating to mineral reservations in former state lands; amending s. 270.11, F.S.; providing for the sale or release of interests in phosphate, minerals, and metals or petroleum that were reserved upon the sale of state lands; prohibiting the Board of Trustees of the Internal Improvement Trust Fund or the State Board of Education from exercising a right of entry with respect to certain parcels of property except under certain circumstances; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Judiciary-Civil; and Appropriations.

By the Committee on Commerce and Representatives Abrams and Bloom—

CS for HB 610—A bill to be entitled An act relating to consumer protection; providing legislative intent; providing definitions; specifying labeling requirements for the distribution and sale of art and craft materials containing toxic substances; requiring that certain notification be made; providing a civil penalty and for deposit of fines to a certain trust fund; providing for rules; providing applicability to the affixing of artificial nails; providing effective dates.

—was referred to the Committee on Health and Rehabilitative Services.

By the Committee on Regulated Industries and Licensing and Representatives Hollingsworth and Selph—

CS for HB 814—A bill to be entitled An act relating to the Beverage Law; creating s. 561.67, F.S.; providing for a written statement of reclamation for goods issued to a licensed distributor of spirituous, vinous and malt beverages; providing for reclamation; providing for notice to secured creditors; limiting the issuance of a statement of reclamation under certain circumstances; limiting civil liability; providing for rules; amending s. 561.20, F.S.; providing for issuance of special licenses under the Beverage Law to civic center authorities; providing for transfer and reversion; providing for a fee; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Irvine—

HB 819—A bill to be entitled An act relating to Clay County Hospital Authority; adding sections 20 and 21 to chapter 30280, Laws of Florida, 1955, as amended; authorizing the Clay County Hospital Authority to sell, lease, or enter into an operating agreement with respect to Clay Memorial Hospital; providing authorization for the sale of the personal equipment of the hospital in connection with a lease or operating agreement; providing for the disposition of the proceeds from the sale, lease, or operating agreement; providing that after a sale or while any such lease or operating agreement is in effect, the authority shall be released of responsibilities and powers for operating and managing the hospital; authorizing the Clay County Hospital Authority to transfer the capital facilities of Clay Memorial Hospital to a nonprofit corporation; providing continuing duties for the authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Bell and Morgan—

HB 918—A bill to be entitled An act relating to a special election to be held on November 4, 1986, pursuant to Section 5 of Article XI of the State Constitution for the approval or rejection by the electors of Florida of a joint resolution creating Section 17 of Article VII and Section 20 of Article XII of the State Constitution to provide for a state bond bank; providing for publication of notice and for procedures; providing an effective date.

—was referred to the Committees on Commerce; Rules and Calendar; and Appropriations.

By Representatives Press and Liberti—

HB 1061—A bill to be entitled An act relating to Palm Beach County; relating to annexation of enclaves by the City of Delray Beach; defining "enclave"; providing for annexation of enclaves within the general boundaries of the City of Delray Beach; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Peeples—

HB 1186—A bill to be entitled An act relating to the East County Water Control District in Lee and Hendry counties; increasing the membership of the board of supervisors and providing for the election of the board by the electors of the district; establishing a subdistrict for that part of the district in Hendry County; providing for elections of subdistrict supervisors by acreage voting; providing a subdistrict budget, tax levy and payment of debts; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Rules and Calendar.

By the Committee on Regulatory Reform and Representative Robinson—

HB 1231—A bill to be entitled An act relating to real estate; amending s. 475.011, F.S.; providing that ch. 475, F.S., relating to real estate brokers, salesmen, and schools, does not apply to certain employees of an owner, or broker for an owner, of an apartment community; amending s. 475.125, F.S., providing a limitation on renewal fees; amending s. 475.182, F.S., providing for quadrennial real estate licensure renewal; amending s. 475.483, F.S., revising language with respect to recovery from the Real Estate Recovery Fund; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

By Representative Lewis and others—

HB 1262—A bill to be entitled An act relating to the City of Jacksonville; establishing a solid waste disposal and resource recovery system within the territorial boundaries of the general services district; providing for the collection and disposal of all solid waste generated or brought within the area affected by this act; authorizing the city to finance, acquire, construct, and operate or provide for the construction and operation or enter into a franchise agreement for the financing, acquisition, improvement, construction, operation, maintenance, or ownership of solid waste disposal and resource recovery facilities; providing definitions; providing a declaration of state policy; vesting exclusive powers in the city to control the collection and disposal of solid waste within the area affected by this act; providing for the sale of resources recovered and energy generated by the facilities; authorizing the use of rights-of-way, easements, and other similar property rights of the state and its local agencies; providing an exemption from the provisions of the Florida Antitrust Act of 1980; providing that the application of the Florida Electrical Power Plant Siting Act to the facilities of any solid waste disposal and resource recovery system authorized by this act shall be at the election of the city; prescribing standards with which any solid waste disposal and resource recovery system covered by this act must conform; providing that all other prior inconsistent laws are superseded; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Regulatory Reform and Representative Robinson—

HB 1299—A bill to be entitled An act relating to pilots, piloting, and pilotage; amending s. 310.002, F.S., providing definitions; amending s. 310.061, F.S.; deleting the limitations on the number of pilots at specified ports; authorizing cross licensing between ports; amending s. 310.071, F.S.; providing for qualifications for applicants for certification as a deputy pilot; creating s. 310.073, F.S.; providing for qualifications for applicants for a license as a state pilot; creating s. 310.075, F.S.; providing for a deputy pilot training program; amending s. 310.101, F.S.; providing grounds for disciplinary action; providing penalties; amending s. 310.111, F.S., providing for marine incident reports; amending s. 310.1115, F.S.; providing for the use of electronic navigation protection equipment under certain circumstances; creating s. 310.146, F.S., exempting certain vessels from pilotage requirements; saving ch. 310, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—was referred to the Committees on Economic, Community and Consumer Affairs; and Appropriations.

By the Committees on Appropriations and Judiciary and Representative Dunbar and others—

CS for HB 1313—A bill to be entitled An act relating to domestic relations; amending s. 61.001, F.S., providing legislative purpose; amending s. 61.021, F.S., relating to residence requirements; creating s. 61.046, F.S., providing definitions; amending s. 61.052, F.S., relating to dissolution of marriage; amending s. 61.08, F.S., relating to alimony; amending s. 61.09, F.S., relating to alimony and child support; amending s. 61.10, F.S., relating to adjudication of obligation to support spouse or minor child unconnected with dissolution; amending s. 61.13, F.S., relating to

child support; providing for insurance payments; providing procedures for payment of support and required support items; amending s. 61.1301, F.S., relating to income deduction orders issued in conjunction with support orders or modification of support orders; creating s. 61.13015, F.S., providing for the enforcement of income deduction orders; creating s. 61.13017, F.S., requiring the honoring of income deductions under certain circumstances; amending s. 61.14, F.S., relating to modification of support, maintenance or alimony agreements or orders; amending s. 61.17, F.S., providing for the effect of certain orders or judgments; amending s. 61.181, F.S., relating to the central depository for receiving, recording, reporting, monitoring and disbursing alimony, support, maintenance and child support payments; creating s. 61.182, F.S., providing for special masters; creating s. 61.183, F.S., providing for liens on real and personal property; amending s. 28.241, F.S., providing an additional filing charge with respect to child support actions; amending s. 88.065, F.S., relating to the conditions of interstate rendition with respect to uniform reciprocal enforcement of support; amending s. 88.121, F.S., providing that the Department of Health and Rehabilitative Services shall represent the petitioner with respect to certain proceedings; amending s. 88.151, F.S., relating to costs and fees; amending s. 88.181, F.S., providing that the department shall prosecute certain cases; amending s. 88.191, F.S., relating to duties of courts and officials in certain states; amending s. 88.211, F.S., relating to the order of support; amending s. 88.251, F.S., providing reference to the central governmental depository with respect to duties of certain courts; amending s. 88.297, F.S., relating to appeals; amending s. 88.345, F.S., relating to representation; amending s. 88.351, F.S., relating to registration; amending s. 95.11, F.S., providing for the time period for the statute of limitation with respect to paternity; amending s. 409.2551, F.S., relating to legislative intent with respect to enforcement of support; amending s. 409.2554, F.S., providing definitions; amending s. 409.2561, F.S., relating to public assistance payments; amending s. 409.2564, F.S., relating to actions for support; amending s. 409.2567, F.S., providing that support and paternity determination services of the department shall be made available on behalf of all dependent children; creating s. 409.2568, F.S., providing for the continuation of support services for public assistance recipients whose benefits are terminated; amending s. 409.2572, F.S., relating to cooperation with respect to public assistance; amending s. 409.2574, F.S., relating to income deductions; creating s. 409.2579, F.S., providing for information sharing between consumer reporting agencies and child support enforcement agencies; amending s. 409.2584, F.S., relating to interest on obligation due; amending s. 742.011, F.S., relating to determination of paternity proceedings; amending s. 742.021, F.S., relating to venue, process, and complaints; amending s. 742.031, F.S., relating to hearings; amending s. 742.10, F.S., relating to the establishment of paternity by other procedures; creating s. 742.12, F.S., providing for scientific testing to determine paternity; creating s. 742.15, F.S., providing for temporary support pending trial; directing the Supreme Court by rule to establish criteria to use in determining child support award amounts; amending section 6 of chapter 85-178, Laws of Florida, relating to child support enforcement demonstration projects; repealing s. 88.031(11), F.S., deleting the definition of the term "prosecuting attorney" with respect to the "Revised Uniform Reciprocal Enforcement of Support Act (1968)"; repealing s. 61.081, F.S., relating to income deduction orders in conjunction with an alimony order or an order for modification of an alimony order; repealing s. 409.245, F.S., relating to actions for support with respect to dependent children; repealing s. 409.2587, F.S., relating to uncollectible child support debts; repealing s. 742.041, F.S., relating to monthly contribution with respect to determination of paternity; providing for the application of repeals; providing an effective date.

—was referred to the Committees on Judiciary-Civil; Health and Rehabilitative Services; and Appropriations.

By Representatives Bell and Morgan—

HJR 919—A joint resolution proposing the creation of Section 17 of Article VII and Section 20 of Article XII of the State Constitution relating to a state bond bank.

—was referred to the Committees on Commerce; Rules and Calendar; Finance, Taxation and Claims; and Appropriations.

By the Committee on Finance & Taxation and Representative T. C. Brown and others—

HJR 1305—A joint resolution proposing an amendment to Section 6 of Article VII and the creation of Section 20 of Article XII of the State Constitution, relating to homestead tax exemptions.

—was referred to the Committees on Finance, Taxation and Claims; Appropriations; and Rules and Calendar.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments and passed House Bills 607, 792, 1021, 1179, 1205, CS for HB 115 and CS for HB 846 as amended.

Allen Morris, Clerk

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 4 and 5 to SB 327 and passed as amended.

Allen Morris, Clerk

The bill contained in the foregoing message was ordered enrolled.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment to House Amendment and passed SB 371 as amended.

Allen Morris, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 894.

Allen Morris, Clerk

The bill contained in the foregoing message was ordered enrolled.

CLAIM BILLS

SB 67—A bill to be entitled An act for the relief of Raul del Portillo; providing an appropriation to compensate him for loss of cumulative compensatory leave time prior to his resignation from the Department of Law Enforcement; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Gordon and adopted:

Amendment 1—On page 2, lines 11 and 17, strike "\$2,298.90" and insert: \$1,048.81

Amendment 2—In title, on page 2, line 4, strike "\$2,298.90" and insert: \$1,048.81

On motion by Senator Gordon, by two-thirds vote SB 67 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

| | | | |
|-----------------|---------|-------------|-----------|
| Mr. President | Fox | Jennings | Neal |
| Barron | Frank | Johnson | Plummer |
| Beard | Gordon | Kirkpatrick | Scott |
| Childers, D. | Grant | Kiser | Thomas |
| Childers, W. D. | Grizzle | Malchon | Thurman |
| Crenshaw | Hair | McPherson | Vogt |
| Deratany | Hill | Meek | Weinstein |
| Dunn | Jenne | Myers | |

Nays—None

Vote after roll call:

Yea—Castor, Gersten, Girardeau

SB 164—A bill to be entitled An act relating to the City of Jacksonville; providing for the relief of David G. Baker; requiring the city to compensate him for personal injuries sustained in an intersectional collision due to the negligence of the City of Jacksonville in failing to properly maintain stop signs at the intersection; providing an effective date.

—was read the second time by title. On motion by Senator Hair, by two-thirds vote SB 164 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Jennings | Peterson |
| Beard | Girardeau | Kirkpatrick | Plummer |
| Castor | Gordon | Kiser | Scott |
| Childers, D. | Grant | Malchon | Thomas |
| Childers, W. D. | Grizzle | Margolis | Thurman |
| Crenshaw | Hair | McPherson | Vogt |
| Dunn | Hill | Meek | Weinstein |
| Fox | Jenne | Myers | |

Nays—2

Johnson Langley

Vote after roll call:

Yea—Gersten, Neal

SB 355—A bill to be entitled An act relating to the City of West Palm Beach; authorizing and directing the City of West Palm Beach to compensate Joan Pippin for injuries sustained due to the negligence of the city; providing an effective date.

—was read the second time by title.

One amendment was adopted to SB 355 to conform the bill to HB 235.

Pending further consideration of SB 355 as amended, on motion by Senator D. Childers, by two-thirds vote HB 235 was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator D. Childers—

HB 235—A bill to be entitled An act relating to the City of West Palm Beach; authorizing and directing the City of West Palm Beach to compensate Joan Pippin for injuries sustained due to the negligence of the city; providing an effective date.

—a companion measure, was substituted for SB 355 and read the second time by title. On motion by Senator D. Childers, by two-thirds vote HB 235 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Fox | Johnson | Neal |
| Barron | Frank | Kirkpatrick | Peterson |
| Beard | Girardeau | Kiser | Plummer |
| Castor | Grant | Malchon | Scott |
| Childers, D. | Grizzle | Mann | Thomas |
| Childers, W. D. | Hair | Margolis | Thurman |
| Crenshaw | Hill | Meek | Vogt |
| Dunn | Jennings | Myers | Weinstein |

Nays—None

Vote after roll call:

Yea—Gersten, Jenne

SB 355 was laid on the table.

CS for HB 176—A bill to be entitled An act for the relief of George K. Young; authorizing the City of Hialeah to compensate George K. Young for his injuries suffered as a result of the negligence of the City of Hialeah; providing an effective date.

—was read the second time by title. On motion by Senator Hill, by two-thirds vote CS for HB 176 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Gersten | Kirkpatrick | Plummer |
| Barron | Girardeau | Kiser | Scott |
| Beard | Grant | Malchon | Thomas |
| Childers, D. | Grizzle | McPherson | Thurman |
| Childers, W. D. | Hair | Meek | Vogt |
| Crenshaw | Hill | Myers | Weinstein |
| Dunn | Jennings | Neal | |
| Frank | Johnson | Peterson | |

Nays—1

Langley

Vote after roll call:

Yea—Castor, Jenne

CS for HB 230—A bill to be entitled An act relating to the City of Fort Pierce, St. Lucie County; providing for the relief of Melissa Crislip; authorizing and directing the City of Fort Pierce to compensate Melissa Crislip for injuries suffered in an accident resulting from the improper placement of a survey marker; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote CS for HB 230 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

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|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Kirkpatrick | Peterson |
| Barron | Gersten | Kiser | Plummer |
| Beard | Girardeau | Malchon | Scott |
| Childers, D. | Grant | McPherson | Thomas |
| Childers, W. D. | Grizzle | Meek | Thurman |
| Crenshaw | Hair | Myers | Vogt |
| Dunn | Hill | Neal | Weinstein |

Nays—2

Johnson Langley

Vote after roll call:

Yea—Castor, Jenne

CS for HB 252—A bill to be entitled An act for the relief of Gloria D. Herbert; providing an appropriation to compensate her for property damages incurred when her automobile was stolen and destroyed by two inmates from the DeSoto START Center in Arcadia, Florida; providing an effective date.

—was read the second time by title. On motion by Senator Neal, by two-thirds vote CS for HB 252 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Johnson | Neal |
| Barron | Girardeau | Kirkpatrick | Peterson |
| Childers, D. | Gordon | Kiser | Plummer |
| Childers, W. D. | Grant | Langley | Scott |
| Crawford | Grizzle | Malchon | Stuart |
| Crenshaw | Hair | Margolis | Thomas |
| Deratany | Hill | McPherson | Thurman |
| Dunn | Jenne | Meek | Vogt |
| Fox | Jennings | Myers | Weinstein |

Nays—None

Vote after roll call:

Yea—Castor, Gersten

HB 258—A bill to be entitled An act for the relief of Father Thomas P. Walsh; providing an appropriation to compensate him for losses incurred due to the acts or omissions of the Department of Education; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 258 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Fox | Hill | Neal |
| Barron | Frank | Jennings | Peterson |
| Beard | Gersten | Johnson | Plummer |
| Childers, D. | Girardeau | Kirkpatrick | Scott |
| Childers, W. D. | Gordon | Langley | Stuart |
| Crawford | Grant | Margolis | Thomas |
| Deratany | Grizzle | Meek | Vogt |
| Dunn | Hair | Myers | Weinstein |

Nays—1

Kiser

Vote after roll call:

Yea—Castor, Jenne

HB 398—A bill to be entitled An act for the relief of Robert B. McCombs; providing an appropriation to compensate him for the loss of his right leg due to the negligence of the Department of Corrections; providing an effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote HB 398 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

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|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Jennings | Meek |
| Beard | Gersten | Johnson | Myers |
| Childers, D. | Girardeau | Kirkpatrick | Neal |
| Childers, W. D. | Gordon | Kiser | Peterson |
| Crawford | Grant | Langley | Plummer |
| Crenshaw | Grizzle | Malchon | Scott |
| Dunn | Hair | Margolis | Thomas |
| Fox | Hill | McPherson | Weinstein |

Nays—None

Vote after roll call:

Yea—Castor, Jenne

HB 596—A bill to be entitled An act relating to Dade County; authorizing and directing Dade County to compensate Eladio and Lesbia Godoy for losses suffered as a result of the negligence of the county; providing an effective date.

—was read the second time by title. On motion by Senator Gordon, by two-thirds vote HB 596 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Jennings | Peterson |
| Beard | Girardeau | Kirkpatrick | Plummer |
| Childers, D. | Gordon | Kiser | Scott |
| Childers, W. D. | Grant | Malchon | Thomas |
| Crawford | Grizzle | Margolis | Weinstein |
| Crenshaw | Hair | Meek | |
| Dunn | Hill | Myers | |
| Fox | Jenne | Neal | |

Nays—4

Deratany Johnson Langley Mann

Vote after roll call:

Yea—Castor, Gersten

CS for HB 857—A bill to be entitled An act for the relief of the estate of Paul D. Huddleston; providing an appropriation to compensate the estate from funds in the State Retirement System Trust Fund; providing an effective date.

—was read the second time by title. On motion by Senator Plummer, by two-thirds vote CS for HB 857 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Gersten | Johnson | Neal |
| Beard | Girardeau | Kirkpatrick | Plummer |
| Childers, D. | Gordon | Kiser | Scott |
| Childers, W. D. | Grant | Malchon | Thomas |
| Crawford | Grizzle | Mann | Thurman |
| Crenshaw | Hair | Margolis | Weinstein |
| Dunn | Hill | McPherson | |
| Fox | Jenne | Meek | |
| Frank | Jennings | Myers | |

Nays—None

Vote after roll call:

Yea—Castor

SPECIAL ORDER

On motion by Senator Margolis, by two-thirds vote HB 1271 was withdrawn from the Committee on Commerce.

On motion by Senator Margolis—

HB 1271—A bill to be entitled An act relating to savings associations; amending s. 665.028, F.S., providing that applications for branch offices do not need to be published in the Florida Administrative Weekly; amending s. 665.0335, F.S., providing additional grounds for the Department of Banking and Finance to take emergency action in order to prevent the probable failure of a savings association; amending s. 665.093, F.S., providing that if an appraisal by the Department of Banking and Finance discloses that any asset of a savings association or its subsidiary is overvalued, the association shall maintain a specific reserve in the amount of the overvaluation; repealing s. 665.046, F.S., relating to the indemnification of officers, directors, and employees of a savings association; providing an effective date.

—a companion measure, was substituted for SB 1221 and read the second time by title. On motion by Senator Margolis, by two-thirds vote HB 1271 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Kirkpatrick | Neal |
| Beard | Girardeau | Kiser | Plummer |
| Childers, D. | Gordon | Langley | Scott |
| Childers, W. D. | Grant | Malchon | Thomas |
| Crawford | Grizzle | Mann | Thurman |
| Crenshaw | Hill | Margolis | Weinstein |
| Deratany | Jenne | McPherson | |
| Dunn | Jennings | Meek | |
| Fox | Johnson | Myers | |

Nays—None

Vote after roll call:

Yea—Barron, Peterson

SB 1221 was laid on the table.

On motion by Senator Jenne, the rules were waived and by two-thirds vote CS for SB 983 was added to the special order calendar following SB 492.

On motions by Senator Mann, by two-thirds vote HB 446 was withdrawn from the Committees on Natural Resources and Conservation and Appropriations.

On motion by Senator Mann—

HB 446—A bill to be entitled An act relating to natural resources; creating s. 375.075, F.S.; authorizing establishment of a program to provide grants to local governmental entities for acquisition or development of land for outdoor recreation; providing for rules; providing selection criteria; providing an effective date.

—a companion measure, was substituted for SB 492 and read the second time by title. On motion by Senator Mann, by two-thirds vote HB 446 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Jennings | Meek |
| Beard | Gersten | Johnson | Myers |
| Childers, D. | Girardeau | Kirkpatrick | Neal |
| Childers, W. D. | Gordon | Kiser | Plummer |
| Crawford | Grant | Langley | Scott |
| Crenshaw | Grizzle | Malchon | Thomas |
| Deratany | Hair | Mann | Thurman |
| Dunn | Hill | Margolis | Vogt |
| Fox | Jenne | McPherson | Weinstein |

Nays—None

Vote after roll call:

Yea—Barron, Peterson

SB 492 was laid on the table.

On motion by Senator Crenshaw, by two-thirds vote CS for HB 731 was withdrawn from the Committee on Judiciary-Criminal.

On motion by Senator Crenshaw—

CS for HB 731—A bill to be entitled An act relating to obscenity; creating s. 847.0135, F.S., creating the "Computer Pornography and Child Exploitation Prevention Act of 1986"; providing definitions; prohibiting the transmission of computer pornography involving minors; providing penalties; amending chapter 847, Florida Statutes; adding a definition section; revising the elements of the sale or distribution of harmful materials to a child, retail display of materials harmful to minors, and exposing minors to harmful motion pictures, exhibitions, shows, presentations, or representations; removing obsolete language; providing for the confiscation and destruction of obscene material; providing an effective date.

—a companion measure, was substituted for CS for SB 983 and read the second time by title.

Senator Crenshaw moved the following amendments which were adopted:

Amendment 1—On page 1, line 19, strike everything after the enacting clause and insert:

Section 1. Section 847.001, Florida Statutes, is created to read:

847.001 Definitions.—When used in this chapter:

(1) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device.

(2) "Deviate sexual intercourse" means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(3) "Harmful to minors" means that quality of any description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, or sexual excitement when it:

(a) Predominantly appeals to the prurient, shameful, or morbid interest of minors;

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

(4) "Minor" means any person under the age of 18 years.

(5) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state.

(6) "Person" includes individuals, firms, associations, corporations, and all other groups and combinations.

(7) "Obscene" means the status of material which:

(a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;

(b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and

(c) Taken as a whole, lacks serious literary, artistic, political or scientific value.

(8) "Sodomasochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(9) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(10) "Sexual bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(11) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.

(12) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(13) "Simulated" means the explicit depiction of conduct set forth in subsection (10) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

Section 2. Section 847.011, Florida Statutes, is amended to read:

847.011 Prohibition of certain acts in connection with obscene, lewd, etc., materials; penalty.—

(1)(a) Any A person who knowingly sells, lends, gives away, distributes, transmits, shows, or transmutes, or offers to sell, lend, give away, distribute, transmit, show, or transmute, or has in his possession, custody, or control with intent to sell, lend, give away, distribute, transmit, show, transmute, or advertise in any manner, any obscene, ~~lewd, lascivious, filthy, indecent, sadistic, or masochistic~~ book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing, paper, card, picture, drawing, photograph, motion-picture film, figure, image, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for ~~obscene or indecent~~ use, or purporting to be for ~~obscene indecent~~ use or purpose; or who knowingly designs, copies, draws, photographs, poses for, writes, prints, publishes, or in any manner whatsoever manufactures or prepares any such material, matter, article, or thing of any such character; or who knowingly writes, prints, publishes, or utters, or causes to be written, printed, published, or uttered, any advertisement or notice of any kind, giving information, directly or indirectly, stating, or purporting to state, where, how, of whom, or by what means any, or what purports to be any, such material, matter, article, or thing of any such character can be purchased, obtained, or had; or who in any manner knowingly hires, employs, uses, or permits any person ~~knowingly~~ to do or assist in doing, ~~either knowingly or innocently~~, any act or thing mentioned above, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A person who, after having been convicted of a violation of this subsection, thereafter violates any of its provisions, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The knowing possession by any person of ~~three~~ six or more identical or similar materials, matters, articles, or things coming within the provisions of paragraph (a) is ~~prima facie presumptive~~ evidence of the violation of said paragraph.

(2) A person who knowingly has in his possession, custody, or control any obscene, ~~lewd, lascivious, filthy, indecent, sadistic, or masochistic~~ book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing, paper, card, picture, drawing, photograph, motion-picture film, film, figure, image, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for ~~obscene or indecent~~ use, or purporting to be for ~~obscene indecent~~ use or purpose, without intent to sell, lend, give away, distribute, transmit, show, transmute, or advertise the same, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who, after having been convicted of violating this subsection, thereafter violates any of its provisions is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083 or s. 775.084. In any prosecution for such possession, it shall not be necessary to allege or prove the absence of such intent.

(3) No person shall as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, or publica-

tion require that the purchaser or consignee receive for resale any other article, paper, magazine, book, periodical, or publication reasonably believed by the purchaser or consignee to be obscene, ~~lewd, lascivious, filthy, indecent, sadistic, or masochistic~~, and no person shall deny or threaten to deny or revoke any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure of any person to accept any such article, paper, magazine, book, periodical, or publication, or by reason of the return thereof. Whoever violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Any person who knowingly promotes, conducts, performs, or participates in an obscene, ~~lewd, lascivious, or indecent~~ show, exhibition, or performance by live persons or a live person before an audience is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any person who, after having been convicted of violating this subsection, thereafter violates any of its provisions and is convicted thereof is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Every act, thing, or transaction forbidden by this section shall constitute a separate offense and shall be punishable as such.

(6) Proof that a defendant knowingly committed any act or engaged in any conduct referred to in this section may be made by showing that at the time such act was committed or conduct engaged in he had actual knowledge of the contents or character of the material, matter, article, or thing possessed or otherwise dealt with, or by showing facts and circumstances from which it may fairly be inferred that he had such knowledge, or by showing that he had knowledge of such facts and circumstances as would put a man of ordinary intelligence and caution on inquiry as to such contents or character.

(7) There shall be no right of property in any of the materials, matters, articles, or things possessed or otherwise dealt with in violation of this section; and, upon the seizure of any such material, matter, article, or thing by any authorized law enforcement officer, the same shall be delivered to and held by the clerk of the court having jurisdiction to try such violation. When the same is no longer required as evidence, the prosecuting officer or any claimant may move the court in writing for the disposition of the same and after notice and hearing, the court, if it finds the same to have been possessed or otherwise dealt with in violation of this section, shall order the sheriff to destroy the same in the presence of the clerk; otherwise, the court shall order the same returned to the claimant if he shows that he is entitled to possession. If destruction is ordered, the sheriff and clerk shall file a certificate of compliance.

(8)(a) The circuit court has jurisdiction to enjoin a threatened violation of this section upon complaint filed by the state attorney or attorney for a municipality in the name of the state upon the relation of such state attorney or attorney for a municipality.

(b) After the filing of such a complaint, the judge to whom it is presented may grant an order restraining the person complained of until final hearing or further order of the court. Whenever the relator state attorney or attorney for a municipality requests a judge of such court to set a hearing upon an application for such a restraining order, such judge shall set such hearing for a time within 3 days after the making of such request. No such order shall be made unless such judge is satisfied that sufficient notice of the application therefor has been given to the party restrained of the time when and place where the application for such restraining order is to be made, provided, however, that such notice shall be dispensed with when it is manifest to such judge, from the sworn allegations of the complaint or the affidavit of the plaintiff or other competent person, that the apprehended violation will be committed if an immediate remedy is not afforded.

(c) The person sought to be enjoined shall be entitled to a trial of the issues within 1 day after joinder of issue, and a decision shall be rendered by the court within 2 days of the conclusion of the trial.

~~(d) In the event that a final decree of injunction is entered, it shall contain a provision directing the defendant having the possession, custody, or control of the materials, matters, articles, or things affected by the injunction to surrender the same to the sheriff and requiring the sheriff to seize and destroy the same. The sheriff shall file a certificate of his compliance.~~

(d)(e) In any action brought as provided in this subsection, no bond or undertaking shall be required of the state attorney or the municipality

or its attorney before the issuance of a restraining order provided for by paragraph (b), and there shall be no liability on the part of the state or the state attorney or the municipality or its attorney for costs or for damages sustained by reason of such restraining order in any case where a final decree is rendered in favor of the person sought to be enjoined.

(e)(f) Every person who has possession, custody, or control of, or otherwise deals with, any of the materials, matters, articles, or things described in this section, after the service upon him of a summons and complaint in an action for injunction brought under this subsection, is chargeable with knowledge of the contents and character thereof.

(9) The several sheriffs and state attorneys shall vigorously enforce this section within their respective jurisdictions.

(10) This section shall not apply to the exhibition of motion-picture films permitted by s. 847.013.

~~(11) For the purposes of this section, the test of whether or not material is obscene is: Whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest.~~

~~(12) For the purposes of this section, the word "person" includes individuals, firms, associations, corporations, and all other groups and combinations.~~

Section 3. Section 847.012, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 847.012, F.S., for present text.)

847.012 Prohibition of sale or other distribution of harmful materials to persons under 18 years of age; penalty.—

(1) As used in this section, "knowingly" means having the general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

(a) The character and content of any material described herein which is reasonably susceptible of examination by the defendant, and

(b) The age of the minor; however, an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(2) It is unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

(a) Any picture, photograph, drawing, sculpture, motion-picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, or sexual conduct and which is harmful to minors, or

(b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter defined in s. 874.001, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and which, is harmful to minors.

(3) Any person violating any provision of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Every act, thing, or transaction forbidden by this section constitutes a separate offense and is punishable as such.

(5)(a) The circuit court has jurisdiction to enjoin a violation of this section upon complaint filed by the state attorney in the name of the state upon the relation of such state attorney.

(b) After the filing of such a complaint, the judge to whom it is presented may grant an order restraining the person complained of until final hearing or further order of the court. Whenever the relator state attorney requests a judge of such court to set a hearing upon an application for such a restraining order, such judge shall set such hearing for a time within 3 days after the making of such request. No such order shall be made unless such judge is satisfied that sufficient notice of the application therefor has been given to the party restrained of the time when and place where the application for such restraining order is to be made.

(c) The person sought to be enjoined shall be entitled to a trial of the issues within 1 day after joinder of issue, and a decision shall be rendered by the court within 2 days of the conclusion of the trial.

(d) In the event that a final decree of injunction is entered, it shall contain a provision directing the defendant having the possession, custody, or control of the materials, matters, articles, or things affected by the injunction to surrender the same to the sheriff and requiring the sheriff to seize and destroy the same. The sheriff shall file a certificate of his compliance.

(e) In any action brought as provided in this section, no bond or undertaking shall be required of the state or the state attorney before the issuance of a restraining order provided for by paragraph (b), and there shall be no liability on the part of the state or the state attorney for costs or for damages sustained by reason of such restraining order in any case where a final decree is rendered in favor of the person sought to be enjoined.

(f) Every person who has possession, custody, or control of, or otherwise deals with, any of the materials, matters, articles, or things described in this section, after the service upon him of a summons and complaint in an action for injunction brought under this section, is chargeable with knowledge of the contents and character thereof.

(6) The several sheriffs and state attorneys shall vigorously enforce this section within their respective jurisdictions.

(7) This section does not apply to the exhibition of motion pictures, shows, presentations, or other representations regulated under the provisions of s. 847.013.

Section 4. Section 847.0125, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 847.0125, F.S., for present text.)

847.0125 Retail display of materials harmful to minors prohibited.—

(1) DEFINITIONS.—As used in this section, "knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

(a) The character and content of any material described herein which is reasonably susceptible of examination by the defendant, and

(b) The age of the minor; however, an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(2) OFFENSES AND PENALTIES.—

(a) It is unlawful for anyone offering for sale in a retail establishment open to the general public any book, magazine, or other printed material the cover of which depicts material which is harmful to minors, to knowingly exhibit such book, magazine, or material in such establishment in such a way that it is on open display to, or within the convenient reach of, minors who may frequent the retail establishment. Such items shall, however, be displayed, either individually or collectively, behind an opaque covering which conceals the book, magazine or other printed material.

(b) It is unlawful for anyone offering for sale in a retail establishment open to the general public any book, magazine, or other printed material, the content of which exploits, is devoted to, or is principally made up of descriptions or depictions of material which is harmful to minors, to knowingly exhibit such book, magazine, or material in such establishment in such a way that it is within the convenient reach of minors who may frequent the retail establishment.

(c) A violation of any provision of this section constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Section 847.013, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 847.013, F.S., for present text.)

847.013 Exposing minors to harmful motion pictures, exhibitions, shows, presentations, or representations.—

(1) Definition.—As used in this section "knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

(a) The character and content of any motion picture described herein which is reasonably susceptible of examination by the defendant, or the character of any exhibition, presentation, representation, or show described herein, other than a motion-picture show, which is reasonably susceptible of being ascertained by the defendant, and

(b) The age of the minor; however, an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(2) OFFENSES AND PENALTIES.—

(a) It is unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly sell to a minor an admission ticket or pass or knowingly admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts nudity, sexual conduct, sexual excitement, or sadomasochistic abuse and which is harmful to minors.

(b) The provisions of paragraph (a) do not apply to a minor when he is accompanied by his parents or either of them.

(c) It is unlawful for any minor to falsely represent to the owner of any premises mentioned in paragraph (a), or to his agent, that such minor is 17 years of age or older, with the intent to procure such minor's admission to such premises for a monetary consideration.

(d) It is unlawful for any person to knowingly make a false representation to the owner of any premises mentioned in paragraph (a), or to his agent, that he is the parent of any minor or that any minor is 17 years of age or older, with intent to procure such minor's admission to such premises or to aid such minor in procuring admission thereto for a monetary consideration.

(e) A violation of any provision of this section constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) INJUNCTIVE PROCEEDINGS.—

(a) The circuit court has jurisdiction to enjoin a threatened violation of subsection (2) upon complaint filed by the state attorney in the name of the state upon the relation of such state attorney.

(b) After the filing of such a complaint, the judge to whom it is presented may grant an order restraining the person or persons complained of until final hearing or further order of the court. Whenever the relator requests a judge of such court to set a hearing upon an application for such a restraining order, such judge shall set such hearing for a time within 3 days after the making of such request. No such order shall be made unless such judge is satisfied that sufficient notice of the application therefor has been given to the person or persons restrained of the time when and place where the application for such restraining order is to be heard. However, such notice shall be dispensed with when it is manifest to such judge, from the allegations of a sworn complaint or independent affidavit, sworn to by the relator or by some person associated with him in the field of law enforcement, and filed by the relator, that the apprehended violation will be committed if an immediate remedy is not afforded.

(c) The person or persons sought to be enjoined shall be entitled to a trial of the issues within 1 day after joinder of issue, and a decision shall be rendered by the court within 2 days after the conclusion of the trial.

(d) In any action brought as provided in this section, no bond or undertaking shall be required of the state or the relator state attorney before the issuance of a restraining order provided for by this section, and there shall be no liability on the part of the state or the relator state attorney for costs or damages sustained by reason of such restraining order in any case in which a final decree is rendered in favor of the person or persons sought to be enjoined.

(e) Every person who has possession, custody, or control of, or otherwise deals with, any motion picture, exhibition, show, representation, or presentation described in this section, after the service upon him of a summons and complaint in an action for injunction brought under this section, is chargeable with knowledge of the contents or character thereof.

(4) LEGISLATIVE INTENT.—In order to make the application and enforcement of this section uniform throughout the state, it is the intent

of the Legislature to preempt the field, to the exclusion of counties and municipalities, insofar as it concerns exposing persons under 17 years of age to harmful motion pictures, exhibitions, shows, representations, and presentations. To that end, it is hereby declared that every county ordinance and every municipal ordinance adopted prior to July 1, 1969, and relating to such subject shall stand abrogated and unenforceable on and after such date and that no county, municipality, or consolidated county-municipal government shall have the power to adopt any ordinance relating to that subject on or after such effective date.

Section 6. Section 847.02, Florida Statutes, is amended to read:

847.02 Confiscation of obscene books, etc.—Whenever anyone is convicted under s. 847.011, the court in awarding sentence shall make an order confiscating said ~~obscene material book, pamphlet, ballad, printed paper, picture, slide, film, or other thing~~ and authorize the ~~sheriff of the county in which the material is held~~ ~~executive officer of the court~~ to destroy the same. ~~The sheriff shall file with the court a certificate of his compliance.~~

Section 7. Section 847.03, Florida Statutes, is amended to read:

847.03 Officer to seize books, etc.—Whenever any officer arrests any person charged with any offense under s. 847.011, he shall seize said ~~obscene material book, pamphlet, ballad, printed paper, picture, slide, or film, or other thing~~, and take the same into his custody to await the sentence of the court upon the trial of the offender.

Section 8. Section 847.06, Florida Statutes, is amended to read:

847.06 Obscene matter; transportation into state prohibited; penalty.—

(1) Whoever knowingly transports into the state or within the state for the purpose of sale or distribution, any obscene, ~~lewd, lascivious, or filthy~~ book, magazine, periodical, pamphlet, newspaper, comic book, story, paper, written or printed story or article, writing, paper, card, picture, drawing, photograph, motion-picture film, figure, image, phonograph record, or wire or tape or other recording ~~pamphlet, picture, film, paper, letter, writing, print, silhouette, drawing, figure, image, cast, phonograph recording, electrical transcription, or other article capable of producing sound or any other matter of obscene indecent or immoral character~~, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) When any person is convicted of a violation of this section, the court in its judgment of conviction may, in addition to the penalty prescribed, order the confiscation and disposal of such items described herein which were found in the possession of or under the immediate control of such person at the time of his arrest.

Section 9. Section 847.07, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 847.07, F.S., for present text.)

847.07 "Wholesale promotion" of obscene materials; penalties.—

(1) As used in this section, "wholesale promote" means to manufacture, issue, sell, provide, deliver, transfer, transmit, publish, distribute, circulate, or disseminate, or offer or agree to do the same, with or without consideration, for purposes of resale or redistribution.

(2) Any person who knowingly wholesale promotes any obscene matter or performance, or in any manner knowingly hires, employs, uses, or permits any person to wholesale promote or assist in wholesale promoting any obscene matter or performance, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) No person shall, as a condition to sale, allocation, consignment, or delivery for resale of any matter or performance, require that the purchaser or consignee receive for resale any other matter or performance reasonably believed by the purchaser or consignee to be obscene; and no person shall deny or revoke any franchise, or threaten to do so, or impose or threaten to impose any penalty, financial or otherwise, by reason of the refusal or failure of any person to accept any such matter or by reason of the return thereof. Whoever violates this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Section 847.08, Florida Statutes, is amended to read:

847.08 Hearings for determination of probable cause. —Whenever an indictment, information, or trial affidavit is filed under the provisions of ss. 847.07-847.09, the state attorney or his duly appointed assistant may apply to the court for the issuance of an order directing the defendant or his principal agent or bailee or other like person to produce the allegedly obscene materials at a time and place so designated by the court for the purpose of determining whether there is probable cause to believe said material is obscene. After hearing the parties on the issue, if the court determines probable cause exists, it may order the material held by the clerk of the court pending further order of the court. This section shall not be construed to prohibit the seizure of obscene materials by any other lawful means.

Section 11. Section 847.0135, Florida Statutes, is created to read:

847.0135 Short title; computer pornography; penalties.—

(1) **SHORT TITLE.**—This section shall be known and may be cited as the "Computer Pornography and Child Exploitation Prevention Act of 1986."

(2) **COMPUTER PORNOGRAPHY.**—A person is guilty of a violation of this section if he knowingly compiles, enters into, or transmits by means of computer, or makes, prints, publishes, or reproduces by other computerized means, or knowingly causes or allows to be entered into or transmitted by means of computer, or buys, sells, receives, exchanges, or disseminates any notice, statement, or advertisement, or any minor's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information, for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct.

(3) **PENALTIES.**—Any person who violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided for in s. 775.082, s. 775.083, or s. 775.084.

Section 12. This act shall take effect October 1, 1986.

Amendment 2—In title, on page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to obscenity; amending ss. 847.011-847.08, F.S.; adding a definition section; revising the elements of the sale or distribution of harmful materials to a child, retail display of materials harmful to minors, and exposing minors to harmful motion pictures, exhibitions, shows, presentations, or representations; removing obsolete language; providing for the confiscation and destruction of obscene material; creating s. 847.0135, F.S.; creating the "Computer Pornography and Child Exploitation Prevention Act of 1986", prohibiting the transmission of computer pornography involving minors; providing penalties; providing an effective date.

On motion by Senator Crenshaw, by two-thirds vote CS for HB 731 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Johnson | Myers |
| Beard | Gersten | Kirkpatrick | Peterson |
| Childers, D. | Girardeau | Kiser | Plummer |
| Childers, W. D. | Gordon | Langley | Scott |
| Crawford | Grant | Malchon | Thomas |
| Crenshaw | Grizzle | Mann | Thurman |
| Deratany | Hair | Margolis | Vogt |
| Dunn | Hill | McPherson | Weinstein |
| Fox | Jennings | Meek | |

Nays—None

Vote after roll call:

Yea—Barron, Jenne, Neal

CS for SB 983 was laid on the table.

CS for SB 1239—A bill to be entitled An act relating to limitations of actions; amending s. 95.11, F.S.; reducing the time within which actions for libel and slander must be commenced; providing an effective date.

—was read the second time by title. On motion by Senator Fox, by two-thirds vote CS for SB 1239 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Johnson | Myers |
| Beard | Gersten | Kirkpatrick | Neal |
| Childers, D. | Girardeau | Kiser | Peterson |
| Childers, W. D. | Gordon | Langley | Plummer |
| Crawford | Grant | Malchon | Thomas |
| Crenshaw | Grizzle | Mann | Thurman |
| Deratany | Hair | Margolis | Vogt |
| Dunn | Hill | McPherson | Weinstein |
| Fox | Jennings | Meek | |

Nays—None

Vote after roll call:

Yea—Barron, Jenne

On motion by Senator Myers, by two-thirds vote HB 572 was withdrawn from the Committee on Commerce.

On motion by Senator Myers—

HB 572—A bill to be entitled An act relating to the "Florida Home Equity Conversion Act"; amending s. 697.202, F.S., to transfer administration of the act from the Department of Community Affairs to the Department of Insurance; directing the Statutory Revision Division to make certain editorial changes to the Florida Statutes; amending ss. 697.203, 697.204, and 697.205, F.S., extending the time period for mortgages issued under the act; revising language with respect to the term of the loan under the act; providing an effective date.

—a companion measure, was substituted for CS for SB 624 and read the second time by title.

Senator Myers moved the following amendments which were adopted:

Amendment 1—On page 3, between lines 25 and 26, insert:

Section 6. The powers, duties, and functions of the Department of Community Affairs and the Florida Housing Finance Agency as prescribed in ss. 697.20-697.206, Florida Statutes, are transferred to the Department of Insurance by a type four transfer, as defined in s. 20.06(4), Florida Statutes.

(Renumber subsequent section.)

Amendment 2—On page 2, lines 16, 18, and 19, strike "not more than" and insert: *greater than*

Amendment 3—In title, on page 1, line 12, after the semicolon (;) insert: transferring certain powers, duties, and functions of the Department of Community Affairs and the Florida Housing Finance Agency to the Department of Insurance by a type four transfer, as defined in s. 20.06(4), F.S.;

On motion by Senator Myers, by two-thirds vote HB 572 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

| | | | |
|-----------------|-----------|-----------|-----------|
| Mr. President | Gersten | Johnson | Myers |
| Childers, D. | Girardeau | Kiser | Neal |
| Childers, W. D. | Gordon | Langley | Peterson |
| Crawford | Grant | Malchon | Plummer |
| Crenshaw | Grizzle | Mann | Scott |
| Dunn | Hair | Margolis | Thomas |
| Fox | Hill | McPherson | Vogt |
| Frank | Jennings | Meek | Weinstein |

Nays—None

Vote after roll call:

Yea—Barron, Beard, Jenne

CS for SB 624 was laid on the table.

CS for CS for SB 604—A bill to be entitled An act relating to judgments; amending s. 55.01, F.S.; requiring final judgments to include additional information identifying the judgment debtor; amending s. 55.505, F.S.; requiring affidavits for the recording of foreign judgments to include additional information identifying the judgment debtor and judgment creditor; providing an effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote CS for CS for SB 604 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Johnson | Neal |
| Beard | Gersten | Kirkpatrick | Peterson |
| Childers, D. | Girardeau | Kiser | Plummer |
| Childers, W. D. | Gordon | Langley | Scott |
| Crawford | Grizzle | Malchon | Stuart |
| Crenshaw | Hair | Mann | Thomas |
| Deratany | Hill | McPherson | Vogt |
| Dunn | Jenne | Meek | Weinstein |
| Fox | Jennings | Myers | |

Nays—None

Vote after roll call:

Yea—Barron

CS for CS for SB 103—A bill to be entitled An act relating to domestic violence; amending s. 415.601, F.S.; providing legislative intent; amending s. 415.602 and s. 741.30, F.S.; redefining “domestic violence” by changing the definition of what constitutes such violence; conforming provisions relating to actions for protection against domestic violence; amending s. 741.29, F.S.; specifying that certain particulars be in a police report of an alleged incident of domestic violence; providing an effective date.

—was read the second time by title. On motion by Senator Fox, by two-thirds vote CS for CS for SB 103 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Johnson | Myers |
| Beard | Gersten | Kirkpatrick | Neal |
| Childers, D. | Girardeau | Kiser | Peterson |
| Childers, W. D. | Gordon | Langley | Stuart |
| Crawford | Grizzle | Malchon | Thomas |
| Crenshaw | Hair | Mann | Thurman |
| Deratany | Hill | Margolis | Vogt |
| Dunn | Jenne | McPherson | Weinstein |
| Fox | Jennings | Meek | |

Nays—None

Vote after roll call:

Yea—Barron

SB 689—A bill to be entitled An act relating to motor vehicle insurance; amending s. 627.727, F.S.; clarifying the applicability of provisions authorizing certain motor vehicle lessees to accept or reject uninsured motor vehicle coverage; providing an effective date.

—was read the second time by title.

Senator Plummer moved the following amendments which were adopted:

Amendment 1—On page 3, strike all of lines 25 and 26 and insert:

Section 2. Paragraph (o) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(o) Illegal dealings in premiums; excess or reduced charges for insurance.—

1. Knowingly collecting any sum as a premium or charge for insurance, which is not then provided, or is not in due course to be provided, subject to acceptance of the risk by the insurer, by an insurance policy issued by an insurer as permitted by this code.

2. Knowingly collecting as a premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, in accordance with the applicable classifications and rates as filed with and approved by the department, and as specified in the policy; or, in cases when classifications, premiums, or rates are not required by this code to be so filed and approved, premiums and charges in excess of or less than those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus lines agents licensed under part VIII of this chapter, of the amount of applicable state and federal taxes, or fees as authorized by s. 626.916(4), in addition to the premium required by the insurer or the charging and collection, by licensed agents, of the exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card, as authorized by subparagraph (q)3., in addition to the premium required by the insurer.

3. Imposing or requesting an additional premium or charge for motor vehicle ~~automobile liability~~ insurance, or refusing to renew the policy, solely because the insured was involved in a ~~vehicular an automobile~~ accident, unless the applicant's or insured's insurer has incurred a loss under the insured's policy, other than with respect to uninsured motorist coverage, arising out of the accident, or unless the insurer's file contains sufficient proof of fault, or other criteria, to justify the additional premium or charge or refusal to renew. An insurer which imposes and collects an additional premium or charge ~~such a surcharge~~ shall, in conjunction with the notice of premium due, notify the named insured that he is entitled to reimbursement of the ~~such~~ amount of the additional premium or charge under the conditions listed below and will subsequently reimburse him, if the named insured demonstrates that the operator involved in the accident was:

- Lawfully parked.
- Reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such person.
- Struck in the rear by another vehicle headed in the same direction and was not convicted of a moving traffic violation in connection with the accident.
- Hit by a “hit-and-run” driver, if the accident was reported to the proper authorities within 24 hours after discovering the accident.
- Not convicted of a moving traffic violation in connection with the accident, but the operator of the other ~~vehicle automobile~~ involved in the ~~such~~ accident was convicted of a moving traffic violation.
- Finally adjudicated not to be liable by a court of competent jurisdiction.
- In receipt of a traffic citation which was dismissed or nolle prossed.

4. Imposing or requesting an additional premium for, or refusing to renew, a policy for motor vehicle liability insurance solely because the insured committed a noncriminal traffic infraction as described in s. 318.14 unless the insured has committed ~~infraction is:~~

a. Three or more noncriminal traffic infractions within the 36-month period immediately preceding the effective date of a new policy or the anniversary date or renewal date of a renewal policy. Once a policyholder becomes eligible for surcharge under this sub-subparagraph, each violation committed during the preceding 36-month period may be used to calculate the surcharge. A surcharge shall not be imposed, increased, decreased, or deleted during a current policy period once the correct premium has been applied or prior to the anniversary date, regardless of any change in the number of traffic infractions eligible for surcharge under this sub-subparagraph. ~~A second or subsequent infraction committed within an 18-month period.~~

b. A violation of s. 316.183, when such violation is a result of exceeding the lawful speed limit by more than 15 miles per hour.

5. Upon the request of the insured, the insurer and licensed agent shall supply to the insured the complete proof of fault or other criteria which justifies the additional charge or cancellation.

6. No insurer shall impose or request an additional premium for motor vehicle insurance, cancel or refuse to issue a policy, or refuse to renew a policy because the insured or the applicant is a handicapped or physically disabled person, so long as the ~~such~~ handicap or physical disability does not substantially impair the ~~such~~ person's mechanically assisted driving ability.

7. No insurer may cancel or otherwise terminate any insurance contract or coverage, or require execution of a consent to rate endorsement, during the stated policy term for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured at a higher premium rate or continuing an existing contract or coverage at an increased premium.

8. No insurer shall, with respect to premiums charged for motor vehicle automobile insurance, unfairly discriminate solely on the basis of age, sex, marital status, or scholastic achievement.

9. Imposing or requesting an additional premium for motor vehicle automobile comprehensive or uninsured motorist coverage solely because the insured was involved in an automobile accident or was convicted of a moving traffic violation.

This paragraph does not apply to life insurance or health insurance.

Section 3. This act shall take effect October 1, 1986.

Amendment 2—In title, on page 1, line 6, after the semicolon (;) insert: amending s. 626.9541, F.S.; changing restrictions upon increases in premiums for, or refusal to review, motor vehicle liability insurance solely because of certain noncriminal traffic infractions;

On motion by Senator Plummer, by two-thirds vote SB 689 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

| | | | |
|-----------------|-----------|-----------|-----------|
| Mr. President | Gersten | Kiser | Plummer |
| Beard | Girardeau | Langley | Scott |
| Childers, D. | Gordon | Malchon | Stuart |
| Childers, W. D. | Grant | Mann | Thomas |
| Crawford | Grizzle | Margolis | Thurman |
| Crenshaw | Hair | McPherson | Vogt |
| Deratany | Hill | Meek | Weinstein |
| Dunn | Jenne | Myers | |
| Fox | Jennings | Neal | |
| Frank | Johnson | Peterson | |

Nays—None

Vote after roll call:

Yea—Barron

Senator Dunn presiding

CS for CS for SB 978—A bill to be entitled An act relating to growth management; amending ss. 161.053, 161.054, 161.055, 161.56, 161.58, 163.3167, 163.3177, 163.3178, 163.3184, 163.3187, 163.3191, 163.3202, 186.508, 186.511, 380.06, 380.07, 380.0651, 380.061, 627.351, F.S.; providing definitions relating to coastal zone protection; providing requirements for coastal zone construction; providing for local enforcement; providing for approval of vehicular traffic on certain coastal beaches; providing requirements for local government comprehensive plans; providing requirements for land development regulations; providing requirements for development orders; providing requirements and statewide guidelines and standards for developments of regional impact; providing for the Florida Land and Water Adjudicatory Commission; providing membership of the Quality Development Review; providing for plan amendments relating to Florida's Quality Developments; authorizing development agreements between local governments and developers; providing a short title and legislative intent; providing for legislative intent of the rule regarding minimum criteria for the review and determination of compliance; providing definitions; providing for applicability; requiring public hearings prior to entering into a development agreement; providing requirements for development agreements; specifying the duration of development agreements; providing for consistency with the comprehensive plan and land development regulations; providing for the application of subsequently adopted laws and policies to a development agreement; providing that a development agreement shall constitute an administrative act by a local government; providing for periodic review of a development agreement; providing for amendment or cancellation of a development agreement; requiring a development agreement to be recorded; providing for modification or revocation of a development agreement to comply with subsequently enacted state and federal laws; providing for enforcement; providing windstorm risk apportionment; providing an effective date.

—was read the second time by title.

Senator Vogt moved the following amendment which was adopted:

Amendment 1—On page 9, line 20, after "1980." insert: upon request, the Department of Natural Resources may provide information and guidance as to those areas within the coastal building zone where the erosion and scour of a 100-year storm event is applicable.

Senator Stuart moved the following amendments which were adopted:

Amendment 2—On page 7, strike all of lines 5-10 and insert: which equals or exceeds a cumulative total of 50 percent of market value over a period of five years. The market value shall be either the market value before the improvement or repair is started or if the structure has been damaged, and is being restored, the market value before the damage occurred. No repair, reconstruction, improvement or alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places shall be considered a substantial improvement.

Amendment 3—On page 5, line 24, after "plants" insert: and all related structures or facilities,

Senator Dunn offered the following amendment which was moved by Senator Stuart and adopted:

Amendment 4—On page 14, strike all of lines 13-17 and insert: from any such fees shall be used only for beach maintenance; beach-related traffic management and parking; beach-related law enforcement and liability insurance; or beach-related sanitation, lifeguards, or other staff purposes.

On motion by Senator Frank, by two-thirds vote CS for CS for SB 978 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

| | | | |
|-----------------|-----------|-------------|-----------|
| Barron | Gersten | Kirkpatrick | Neal |
| Beard | Girardeau | Kiser | Peterson |
| Childers, D. | Gordon | Langley | Plummer |
| Childers, W. D. | Grant | Malchon | Scott |
| Crenshaw | Grizzle | Mann | Stuart |
| Deratany | Hair | Margolis | Thomas |
| Dunn | Hill | McPherson | Thurman |
| Fox | Jennings | Meek | Vogt |
| Frank | Johnson | Myers | Weinstein |

Nays—None

Vote after roll call:

Yea—Mr. President, Jenne

On motions by Senator Stuart, by two-thirds vote HB 1198 was withdrawn from the Committees on Natural Resources and Conservation, Finance, Taxation and Claims and Appropriations.

On motion by Senator Stuart—

HB 1198—A bill to be entitled An act relating to land reclamation; creating part III of chapter 378, F.S., the Phosphate Land Reclamation Act; providing intent and definitions; specifying applicability; providing powers and duties of the Department of Natural Resources with respect to phosphate mine reclamation; providing for memoranda of agreement with other agencies; providing for adoption of statewide reclamation criteria and standards; requiring certain financial responsibility; providing for submittal of operators' financial statements; providing for confidentiality and for review and repeal thereof; establishing a schedule for completion of reclamation; providing for injunctive relief and damages; providing for civil penalties; providing for recovery against financial security; requiring notice of violation; providing for variances; creating part IV of chapter 378, F.S., the Resource Extraction Reclamation Act; providing intent and definitions; providing powers and duties of the department with respect to reclamation of lands disturbed by extraction of other resources; providing review procedures; providing for public access to information and confidentiality of certain records; providing for review and repeal; providing for inspections; providing for injunctive relief; specifying civil liability of noncomplying operators; authorizing certification of local governments or the Department of Transportation to carry out certain duties under the act; specifying relationship to other

laws; requiring notice of intent to mine by extractors of limestone, heavy minerals, fuller's earth clay, and other specified resources; requiring conceptual reclamation plans with respect to mining of heavy minerals and fuller's earth clay; providing reclamation performance standards; specifying application to existing mines; providing an exemption; amending s. 211.32, F.S., relating to criteria for mandatory reclamation programs for taxpayers subject to tax on severance of solid minerals; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 463 and read the second time by title.

Senator Stuart moved the following amendment:

Amendment 1—On page 34, between lines 19 and 20, insert:

Section 3. Paragraph (f) is added to subsection (4) of section 378.101, Florida Statutes, to read:

378.101 Florida Institute of Phosphate Research.—

(4)

(f) *The board shall adopt rules necessary to carry out the duties and responsibilities of the institute.*

Section 4. Florida Institute of Phosphate Research; procurement of research services.—

(1) **SHORT TITLE.**—This section may be cited as the "Florida Institute of Phosphate Research Competitive Negotiation Act."

(2) **DEFINITIONS.**—As used in this section, the term:

(a) "Research services" means services within the scope of research, as performed by a chemist, biologist, geologist, engineer, university professor, or other researcher in connection with research performed for the institute.

(b) "Institute" means the Florida Institute of Phosphate Research.

(c) "Firm" means any individual, firm, partnership, corporation, association, university, state or federal agency, or other legal entity permitted by law to enter into a contractual agreement for services in this state.

(d) "Compensation" means the total amount paid by the institute for research services.

(e) "Project" means the research study or planning activity described by the institute pursuant to paragraph (3)(a).

(f) "Selection committee" means a group composed of one or more of research directors of the institute and one or more outside experts, knowledgeable in the research subject to be addressed in the project. The committee shall consist of an odd number of at least three members selected by the board of directors of the institute.

(3) **PUBLIC ADVERTISEMENT AND QUALIFICATION PROCEDURE.**—

(a) The institute shall publicly advertise, in a uniform and consistent manner, each occasion when research services are required to be purchased for a research project or for a research-related planning or study activity and the fee for services exceeds \$5,000. The advertisement shall include a general description of the project and shall indicate how interested parties may apply for consideration.

(b) The institute shall adopt administrative procedures for the evaluation of research services, including, but not limited to, qualifications of the firm, capabilities, adequacy of personnel, plan of study, past record and experience, and any other factors applicable to the institute's requirements for a project.

(c) The proceedings under this section shall be open to the public.

(4) **COMPETITIVE SELECTION.**—

(a) A selection committee shall be chosen to evaluate current statements of qualifications and performance data on file with the institute, for each proposed project, with statements submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no fewer than three firms regarding their qualifications, approach to the project, and ability to furnish the required service. If three firms are not available, the board of directors may authorize consideration of fewer than three firms.

(b) The selection committee shall select, in order of preference, no fewer than three firms deemed to be most highly qualified, considering the ability of research personnel; past performance; proposed plan of study; willingness to meet time and budget requirements; location; recent, current and projected workloads; and the volume of work previously awarded to the firm by the institute, to equitably distribute contracts among qualified firms, provided the most highly qualified firm with the most appropriate plan of study is selected. If fewer than three firms apply, the board of directors may consider the ones that apply.

(c) This subsection does not apply when the fee for professional services is \$5,000 or less.

(5) **COMPETITIVE NEGOTIATION.**—

(a) The institute shall negotiate a contract with the selected firm at compensation which is fair, competitive, and reasonable. In making such determination, the institute shall analyze the cost, scope, and complexity of the research services required. Fixed-fee contracts must contain a provision stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting, and must contain a provision that the original contract price and any additions will be adjusted to exclude any significant sums by which the institute determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. Contract adjustments must be made within 1 year following completion of a contract.

(b) If the institute is unable to negotiate a fair, competitive, and reasonable contract with the most qualified firm, negotiations with that firm shall be terminated and the institute shall negotiate with the second most qualified firm. If no agreement can be reached with the firm, the institute shall terminate negotiations and shall negotiate with the third most qualified firm.

(c) If the institute is unable to negotiate a satisfactory contract with any of the selected firms, the institute shall select additional firms in order of competence and qualifications and shall continue negotiations until an agreement is reached, or the institute may readvertise or terminate the project.

(6) **PROHIBITION AGAINST CONTINGENT FEES.**—

(a) Each contract entered into by the institute for research services must contain the following provision: The researcher warrants that he has not employed or retained any person, other than an employee working only for him to secure this agreement and that he has not paid or agreed to pay any other person any consideration contingent upon the making of this agreement. If this provision is violated, the institute may terminate the agreement without liability and may deduct from the contract price, or otherwise recover, the full amount of such consideration from the researcher.

(b) Any person other than an employee working only for a researcher, who offers, agrees, or contracts to solicit or secure institute contracts for any person other than the researcher and is to be paid, or is paid, any consideration contingent upon the award of a contract, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

(c) Any person who offers to pay, or pays, any consideration contingent upon the award of any contract is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

(d) Any person employed by the institute who offers to solicit or solicits a contract for consideration contingent upon the award of such contract is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

(7) **APPLICABILITY TO EXISTING CONTRACTS.**—This section does not affect the validity or effect of any contracts in existence on the effective date of this act.

Section 5. Subsection (8) of section 378.034, Florida Statutes, is amended to read:

378.034 Submission of a reclamation program request; procedures.—

(8) Until 1995, the funds available for approved reclamation contracts and acquisitions of nonmandatory lands ~~not eligible for reimbursement~~ shall not exceed 10 percent of the uncommitted fund balance of the trust

fund at the beginning of each year. The prioritized list approved by the committee may contain more reclamation program applications than there are funds available during the year.

Section 6. Subsection (2) of section 253.023, Florida Statutes, is amended to read:

253.023 Conservation and Recreation Lands Trust Fund; purpose.—

(2)(a) There is established within the Department of Natural Resources the Conservation and Recreation Lands Trust Fund, to be used as a nonlapsing, revolving fund exclusively for the purposes of this section. To the fund shall be credited 50 percent of the total moneys collected from the excise tax on the severance of:

1.(a) Oil such moneys to be taken from the first oil tax provided in s. 211.02(1)(a);

2.(b) Gas, such moneys to be taken from the first gas tax provided in s. 211.02(1)(c);

3.(c) Solid minerals other than phosphate rock, such moneys to comprise that portion of the tax paid into the State Treasury in accordance with part II of chapter 211; and

4.(d) Phosphate rock, such moneys to be taken from that portion of the tax paid into the State Treasury in accordance with part II of chapter 211.

The Department of Revenue, upon compilation of each month's receipts of the severance tax, shall credit the amount provided in this section to the fund, ~~commencing with the funds collected in July 1984; however, if such amount exceeds \$25 million in fiscal year 1984-1985, \$35 million in fiscal year 1985-1986, or \$40 million in any fiscal year thereafter, the department shall deposit the excess into the General Revenue Fund.~~

(b) ~~There shall annually be transferred from the fund to the Land Acquisition Trust Fund the sum of \$10 million to be used to pay the debt service on bonds issued pursuant to s. 375.051, F.S., to acquire lands on the established priority list as determined by the selection committee pursuant to s. 259.035, F.S.; provided, however, that no moneys transferred to the Land Acquisition Trust Fund pursuant to this subsection or, earnings thereon, shall be used to pay debt service on Save Our Coast bonds. Any interest earnings on moneys derived from a bond issue pursuant to this subsection shall be deposited in the Conservation and Recreation Lands Trust Fund. No offer by the state for lands acquired pursuant to this subsection may exceed 70% of the appraised value as determined in s. 253.025(7), F.S.~~

(10) ~~Beginning in fiscal year 1987-1988, 10 percent of the moneys credited to the fund each year shall be reserved by the board of trustees for the purposes of management, maintenance, and capital improvements. Capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets. Ninety percent of the moneys credited to the fund each year shall be available for the acquisition of land pursuant to this section. The board of trustees may allocate, in any year, an amount not to exceed 10 percent of the moneys credited to the fund in that year, such allocation to be used for maintenance and management of any lands acquired pursuant to this section.~~

(11) All lands managed under this section shall be:

(a) *Managed in a manner that will provide the greatest combination of benefits to the public and to the resources; and*

(b) *Managed for public outdoor recreation which is compatible with the conservation and protection of public lands.*

Such public use may include fishing, hunting, camping, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, birding, sailing, jogging, and other related outdoor activities. open for public use and enjoyment to the extent the board of trustees find compatible with the conservation and protection of public lands. Such public use may include, upon approval of the board of trustees, fishing, hunting, camping, hiking, nature study, swimming, boating, and canoeing.

Section 6. Subsection (3) of section 373.139, Florida Statutes, is amended to read:

373.139 Acquisition of real property.—

(3) Appraisal reports are confidential and exempt from the provisions of chapter 119 until an option contract is executed or, if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing board. In the event that negotiation is terminated by the district, the appraisal report shall become available pursuant to chapter 119. *Notwithstanding the provisions of this section and s. 253.025, a district and the Division of State Lands may share and disclose appraisal reports or appraisal information when joint acquisition of property is contemplated. A district and the Division of State Lands shall maintain the confidentiality of such appraisal reports or appraisal information in conformance with this section and s. 253.025.*

Section 7. Section 373.59, Florida Statutes, is amended to read:

373.59 Water Management Lands Trust Fund.—

(1) There is established within the Department of Environmental Regulation the Water Management Lands Trust Fund, to be used as a nonlapsing fund for the purposes of this section. The moneys in this fund are hereby continually appropriated for the *purposes of land acquisition, management, maintenance, and capital improvements purpose of acquiring land* in accordance with the provisions of this section. *Up to 10 percent of the moneys in the fund may be allocated annually to the districts for management, maintenance, and capital improvements pursuant to subsection (7). The districts may contract with state agencies to provide the management and maintenance services.*

(2)(a) Subsequent to public hearings, similar to those held pursuant to s. 120.54, each district shall file a 5-year plan for acquisition with the Legislature and the Secretary of Environmental Regulation by January 15, 1982. Annually thereafter, each district shall file with the Legislature and the secretary a report of acquisition activity together with modifications or additions to its 5-year plan of acquisition. *The report shall also include a description of land management activity. Expenditure of moneys from the Water Management Lands Trust Fund shall be limited to the costs for acquisition, management, maintenance, and capital improvements of lands included within the plan as filed by each district; however, no such acquisition of lands shall occur without a public hearing similar to those held pursuant to the provisions set forth in s. 120.54.*

(b)(a) *Moneys from the fund shall be used for continued acquisition, management, maintenance, and capital improvements of the following lands and lands set forth in the 5-year land acquisition plan of the district. Prior to July 15, 1982, the use of moneys from the fund shall be limited to the following land acquisitions:*

1. By South Florida Water Management District—lands in the water conservation areas and areas adversely affected by raising water levels of Lake Okeechobee in accordance with present regulation schedules, and the Savannahs Wetland area in Martin County and St. Lucie County.

2. By Southwest Florida Water Management District—lands in the Four River Basins areas, including Green Swamp, Upper Hillsborough and Cypress Creek, Anclote Water Storage Lands (Starkey), Withlacoochee and Hillsborough riverine corridors, and Sawgrass Lake addition.

3. By St. Johns River Water Management District—Seminole Ranch, Latt Maxey and Evans properties in the upper St. Johns River Basin.

4. By Suwannee River Water Management District—lands in Suwannee River Valley.

5. By Northwest Florida Water Management District—lands in the Choctawhatchee and Apalachicola River Valleys.

(b) ~~After July 15, 1982, the use of moneys from the fund shall be used for continued acquisition of lands listed in paragraph (a) and as set forth in the 5-year land acquisition plans of the districts.~~

(3) Moneys from the Water Management Lands Trust Fund shall be used for acquiring the fee or other interest in lands necessary for water management, water supply, and the conservation and protection of water resources, except that such moneys shall not be used for the acquisition of rights-of-way for canals or pipelines. *Such moneys shall also be used for management, maintenance, and capital improvements.* Lands acquired with moneys from the fund shall be managed and maintained in an environmentally acceptable manner and, to the extent practicable, in such a way as to restore and protect their natural state and condition. The secretary of the Department of Environmental Regulation shall release acquisition moneys from the Water Management Lands Trust

Fund to a district following receipt of a resolution adopted by the governing board identifying the lands being acquired and certifying that such acquisition is consistent with the plan of acquisition and other provisions of this act. The governing board shall also provide to the Secretary of Environmental Regulation a copy of all certified appraisals used to determine the value of the land to be purchased. If the purchase price is greater than the appraisal price, the governing board shall submit written justification for the increased price. The Secretary of Environmental Regulation may withhold moneys for any purchase that is not consistent with the 5-year plan or the intent of this act or that is in excess of appraised value. The governing board may appeal any denial to the Land and Water Adjudicatory Commission pursuant to s. 373.114. *The Secretary of the Department of Environmental Regulation shall release to the districts moneys for management, maintenance, and capital improvements following receipt of a resolution and request adopted by the governing board which specifies the designated managing agency, specific management activities, public use, estimated annual operating costs, and other acceptable documentation to justify release of moneys.*

(4) Water management land acquisition costs shall include payments to owners and costs and fees associated with such acquisition.

(5) If a district issues revenue bonds or notes under s. 373.584, the district may pledge its share of the moneys in the Water Management Lands Trust Fund as security for such bonds or notes. The Department of Environmental Regulation shall pay moneys from the trust fund to a district or its designee sufficient to pay the debt service, as it becomes due, on the outstanding bonds and notes of the district; however, such payments shall not exceed the district's cumulative portion of the trust fund. However, any moneys remaining after payment of the amount due on the debt service shall be released to the district pursuant to subsection (3).

(6) Any unused portion of a district's share of the fund shall accumulate in the trust fund to the credit of that district. Interest earned on such portion shall also accumulate to the credit of that district to be used for land acquisition, management, maintenance, and capital improvements as provided in this section. The total moneys over the life of the fund available to any district under this section shall not be reduced except by resolution of the district governing board stating that the need for the moneys no longer exists.

(7) Moneys from the Water Management Lands Trust Fund shall be allocated available to the five water management districts in the following percentages:

- (a) Thirty percent to the South Florida Water Management District.
- (b) Twenty-five percent to the Southwest Florida Water Management District.
- (c) Twenty-five percent to the St. Johns River Water Management District.
- (d) Ten percent to the Suwannee River Water Management District.
- (e) Ten percent to the Northwest Florida Water Management District.

~~Notwithstanding the distribution formula specified in paragraphs (a) through (e), in fiscal year 1985-1986, the first proceeds of the Water Management Lands Trust Fund in an amount of \$500,000 shall be distributed equally among the five water management districts and shall be used by the districts to develop acquisition plans and management plans for lands acquired with moneys from the Water Management Lands Trust Fund. Moneys that remain in the Water Management Lands Trust Fund after such distribution shall be available to the districts according to the formula specified in paragraphs (a) through (e).~~

(8) *Beginning in fiscal year 1986-1987, each district may use up to 10 percent of its allocation under subsection (7) for management, maintenance, and capital improvements. Capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets.*

(9)(8) Moneys in the fund not needed to meet current obligations incurred under this section shall be transferred to the State Board of Administration, to the credit of the fund, to be invested in the manner provided by law. Interest received on such investments shall be credited to the fund.

(10)(9) Lands acquired for the purposes enumerated in this section shall also be used for general public recreational purposes. General public recreational purposes shall include, but not be limited to, fishing, hunting, horseback riding, swimming, camping, hiking, canoeing, boating, diving, birding, sailing, jogging, and other related outdoor activities to the maximum extent possible considering the environmental sensitivity and suitability of those lands. These public lands shall be evaluated for their resource value for the purpose of establishing which parcels, in whole or in part, annually or seasonally, would be conducive to general public recreational purposes. *Such findings shall be included in management plans which are developed for such public lands.* These lands shall be made available to the public for these purposes, unless the district governing board can demonstrate that such activities would be incompatible with the purposes for which these lands were acquired.

(11)(10) A district may dispose of land acquired under this section, pursuant to s. 373.089. However, revenue derived from such disposal may not be used for any purpose except the purchase of other lands meeting the criteria specified in this section or payment of debt service on revenue bonds or notes issued under s. 373.584, as provided in this section.

(12)(11) No moneys generated pursuant to this act may be applied or expended subsequent to July 1, 1985, to reimburse any district for prior expenditures for land acquisition from ad valorem taxes or other funds other than its share of the funds provided herein or to refund or refinance outstanding debt payable solely from ad valorem taxes or other funds other than its share of the funds provided herein.

Section 8. Subsection (2) of section 375.041, Florida Statutes, is amended to read:

375.041 Land Acquisition Trust Fund.—

(2) The moneys on deposit in the Land Acquisition Trust Fund shall be first applied to pay the rentals due under lease-purchase agreements or to meet debt-service requirements of revenue bonds issued pursuant to s. 375.051; *provided, however, that debt service on Save Our Coast bonds shall not be paid from moneys transferred to the Land Acquisition Trust Fund pursuant to s. 253.023(2)(b).*

Section 9. The Department of Natural Resources is authorized to acquire by the exercise of the power of eminent domain, in accordance with the provisions of chapter 73 or chapter 74, Florida Statutes, the following specific parcels of land and any or all rights, title, and interest in such land, provided that the owners of such parcels have been offered compensation for such parcels pursuant to s. 253.025, Florida Statutes, and that the department files before September 1, 1988, a petition to exercise such power with respect to any parcel to be acquired.

(1) NORTH SHORE OPEN SPACE.—All privately owned land within the "Save Our Coast" land acquisition project known as North Shore Open Space, located generally in Section 2 of Township 53 South, Range 42 East, Dade County, Florida; and more particularly located easterly of Collins Avenue, south of 79th Street and north of 76th Street within the City of Miami Beach, Florida.

(2) COLLINS AVENUE TRACT.—All Those privately owned lands, described as:

Lot 13, Block 1, AMENDED PLAT OF SECOND OCEAN SUBDIVISION, according to the plat thereof as recorded in Plat Book 28 at Page 28 of the Public Records of Dade County, Florida.

(3) PIER-2nd STREET PARKS ADDITION.—All those privately owned lands, described as:

Lots 1 through 8 inclusive, Block 113, Ocean Beach Addition No. 4, Plat Book 3, Public Records of Dade County, Florida.

Section 10. Paragraph (j) of subsection (1) of Section 211.32, Florida Statutes, is amended to read:

211.32 Tax on solid minerals; Land Reclamation Trust Fund; refund for restoration and reclamation.—

~~(j) The Department of Natural Resources is empowered to institute a civil action in any court of competent jurisdiction for the purpose of obtaining injunctive relief necessary to compel a taxpayer, or any person or persons claiming a fee interest in the land subject to reclamation, to comply with the mandatory reclamation provisions of paragraph (a). If a person other than the taxpayer is compelled to reclaim land pursuant to this paragraph, then such person shall be entitled to receive the reclamation refunds that would be available to the taxpayer under paragraph (d) if the taxpayer had performed such reclamation.~~

(Renumber subsequent sections.)

Senator McPherson moved the following amendment to Amendment 1 which failed:

Amendment 1A—On page 7, strike all of lines 10-12.

The vote was:

Yeas—15

| | | | |
|----------|----------|-----------|-----------|
| Crawford | Hill | Langley | Plummer |
| Deratany | Jennings | Mann | Vogt |
| Grizzle | Johnson | McPherson | Weinstein |
| Hair | Kiser | Myers | |

Nays—19

| | | | |
|-----------------|-----------|---------|----------|
| Mr. President | Dunn | Gordon | Peterson |
| Barron | Fox | Grant | Stuart |
| Beard | Frank | Malchon | Thomas |
| Castor | Gersten | Meek | Thurman |
| Childers, W. D. | Girardeau | Neal | |

The President presiding

Senator Stuart moved the following amendment to Amendment 1 which was adopted:

Amendment 1B—On page 7, strike all of lines 10-12 and insert: Lands acquired pursuant to this subsection may only be purchased for 70 percent or less of the appraised value as determined in s. 253.025(7), F.S.

Senator McPherson moved the following amendment to Amendment 1 which was adopted:

Amendment 1C—On page 6, strike all of lines 22-29 and insert: The Department of Revenue, upon compilation of each month's receipts of the severance tax, shall credit the amount provided in this section to the fund, ~~commencing with the funds collected in July 1984~~; however, if such amount exceeds \$40 ~~\$25~~ million in fiscal year 1986-87 ~~1984-1985~~, \$43 ~~\$35~~ million in fiscal year 1987-1988 ~~1985-1986~~, or \$46 ~~\$40~~ million in any fiscal year 1988-1989 ~~thereafter~~, the department shall deposit the excess into the General Revenue Fund. *Beginning July 1, 1989, the fund shall receive 50 percent of the total moneys collected pursuant to this section.*

Amendment 1 as amended was adopted.

Senators Stuart and Dunn offered the following amendment which was moved by Senator Stuart and adopted:

Amendment 2—On page 27, line 2, strike “, including revegetation where practicable” and between lines 2 and 3, insert:

(6) Reclamation shall include revegetation, with species native to the area, of littoral zones and upland areas, except that revegetation shall not be required in those areas where revegetation is impractical or not in accordance with good land management practices.

(Renumber subsequent sections.)

Senator Stuart moved the following amendments which were adopted:

Amendment 3—On page 25, strike all of lines 7-14 and insert:

378.412 Relationship with other laws.—It is the intent of the Legislature that ss. 378.202 - 378.804 supplement other laws regarding resource extraction. Nothing contained in such sections shall be construed to limit, abridge, or alter any agency's duties, authority and responsibilities granted pursuant to another statute. Nothing in ss. 378.202 - 378.804 shall be deemed to preempt local ordinances that impose stricter reclamation standards.

Amendment 4—On page 14, line 9, strike “90-day time period” and on line 12, “90-day period” and insert: time for initiating corrective action

Amendment 5—On page 6, strike all of lines 5-9 and insert:

(b) After proper notice, and upon the presentation of appropriate credentials and other documents as may be required by law, to enter on and inspect at reasonable times and intervals for the purpose of assuring compliance with ss. 378.202 - 378.213, any lands that are subject to the provisions of ss. 378.202 - 378.213, F.S.

Amendment 6—On page 15, strike all of lines 8-10 and insert:

(d) To accommodate specific phosphate mining, processing or chemical plant uses that otherwise would be inconsistent with the requirements of this part.

On motion by Senator Stuart, by two-thirds vote HB 1198 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Kirkpatrick | Plummer |
| Barron | Gersten | Kiser | Scott |
| Beard | Girardeau | Langley | Stuart |
| Childers, D. | Gordon | Malchon | Thomas |
| Childers, W. D. | Grant | Margolis | Thurman |
| Crawford | Grizzle | McPherson | Vogt |
| Crenshaw | Hair | Meek | Weinstein |
| Deratany | Hill | Myers | |
| Dunn | Jennings | Neal | |
| Fox | Johnson | Peterson | |

Nays—None

Vote after roll call:

Yea—Castor, Jenne,

CS for CS for SB 463 was laid on the table.

Special Guest

Senator Langley introduced the Honorable Bill McCollum, Congressman, Fifth Congressional District of Florida, who addressed the Senate.

On motion by Senator Peterson, by two-thirds vote SR 1263 was withdrawn from the Committee on Rules and Calendar.

Consideration of Resolution

On motion by Senator Peterson—

SR 1263—A resolution commending Florida Southern College for its national championships in baseball and golf.

WHEREAS, during the past year, Florida Southern College athletic teams won national championships in the NCAA Division II in both baseball and golf, and

WHEREAS, Coach Chuck Anderson was voted the NCAA Division II “National Coach of the Year” by the American Association of Baseball Coaches, and

WHEREAS, five Florida Southern College baseball players and five golfers were named All-American, and

WHEREAS, by such achievements, the Florida Southern College “Moccasins” have brought national honor and recognition to Florida Southern College and the state of Florida, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the players and coaches of the Florida Southern College baseball and golf teams are commended for their outstanding record of accomplishments in bringing Florida Southern College to national prominence and excellence in intercollegiate baseball and golf.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the Senate affixed, be presented to the Florida Southern College baseball team and Coach Chuck Anderson and the golf team and Coach Charley Matlock as a tangible token of the sentiments of the Florida Senate.

—was taken up out of order by unanimous consent, read the second time in full and unanimously adopted.

Senator Peterson escorted Chuck Anderson and Charlie Matlock to the rostrum where they were presented a copy of the resolution.

SPECIAL ORDER, continued

CS for CS for SB 607—A bill to be entitled An act relating to environmental regulation; amending ss. 403.021, 403.061, 403.0861, 403.087, 403.0871, 403.0876, 403.919, 403.165, 403.1835, 403.201, 403.509, 403.511, 403.516, 403.7264, 403.7265, 403.806, 403.813, 403.853, 403.861, 403.916, 403.919, 20.261, 403.8081, 403.0862, 403.1834, 403.101, F.S.; providing

public policy; removing certain limitations on designation of Outstanding Florida Waters; changing the date for the adoption of discharge standards for scallop processing; providing for collection and disposition of fees; providing for use of pollution awards; providing for comments from a special-purpose committee; providing a revolving loan program for sewage treatment facilities; requiring plans and specifications prior to loan approval; limiting the use of loans; authorizing penalties for delinquent repayments; authorizing the use of federal funds; authorizing the Department of Environmental Regulation to establish rules for prioritizing projects; establishing administrative requirements for local governments receiving assistance; providing clarifications; limiting certification conditions and variances; providing additional hazardous waste amnesty days; providing for hazardous waste grants; providing exemptions from permitting requirements; providing circumstances for adoption of drinking water standards more stringent than federal standards; providing for local participation in permitting; providing equitable distribution considerations; establishing a Division of Environmental Operations; prescribing powers and duties; providing for discharging wastes from state groundwater clean-up operations; providing for the issuance of state bonds for stormwater control and treatment facilities; defining racketeering; exempting certain certificates and renewals from s. 120.60(3), F.S.; providing for activities of the Vegetative Index Review Committee; establishing a special unit for permit coordination and processing in the Division of Permitting of the Department of Environmental Regulation; establishing procedures for processing of applications; providing for fees; providing for expedited administrative hearings; providing additional positions; designating the channel at the mouth of the Suwannee River as the "Perry C. McGriff Channel;" providing for markers; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Stuart moved the following amendments which were adopted:

Amendment 1—On page 20, line 25, insert:

(q) *The construction, operation or maintenance of stormwater management facilities which are designed to serve single family residential projects, including duplexes, triplexes and quadruplexes, if they are less than 10 acres total land and have less than 2 acres of impervious surface and if the facilities:*

1. *Comply with all regulations or ordinances applicable to stormwater management and adopted by a city or county;*

2. *Are not part of a larger common plan of development or sale; and*

3. *Discharge into a stormwater discharge facility exempted or permitted by the department under this chapter which has sufficient capacity and treatment capability as specified in this chapter and is owned, maintained, or operated by a city, county, special district with drainage responsibility, or water management district; however, this exemption does not authorize discharge to a facility without the facility owner's prior written consent.*

(3) The provisions of subsection (2) are superseded by general permits established pursuant to ss. 403.814 and 373.118 which include the same activities. Until such time as general permits are established, or should general permits be suspended or repealed, the exemptions under subsection (2) shall remain or shall be reestablished in full force and effect.

Section 16. Subsection (8) of section 9 of chapter 84-79, Laws of Florida, is amended to read:

Section 9. Pursuant to s. 403.817, Florida Statutes, the Legislature hereby ratifies the rule adopted on January 25, 1984, by the Environmental Regulation Commission with the following changes:

(8) There is created a Vegetative Index Review Committee composed of nine members. Three members shall be appointed by the President of the Senate, three members shall be appointed by the Speaker of the House, and three members shall be appointed by the Governor. Membership shall be representative of, but not limited to, interested groups as well as individuals possessing technical knowledge concerning agriculture, real estate, local government, the environment, the construction industry, and manufacturing and shall include lay citizens. The members shall be appointed by October 1, 1985, and their terms shall expire March 31, 1987 1986. The Governor shall appoint the chairman. The members shall serve without compensation but shall be paid travel and per diem as provided in s. 112.061, Florida Statutes, while in the performance of

their official duties. Administrative, personnel, and other support services necessary for the committee shall be furnished by the Department of Environmental Regulation. The Vegetative Index Review Committee shall review the operation of a vegetative index Rule 17-4.022, Florida Administrative Code, as amended by this part. The committee shall also review the operation of the 10-year floodplain and soils limitation on jurisdiction, *including any soils reports prepared by or for the department*, and recommend any changes necessary to ensure that the jurisdiction of the department under the vegetative list previously in effect has not been lessened. The committee shall prepare a report to be submitted to the Governor, Speaker of the House, and President of the Senate. The report shall be submitted by March 1, 1986, after public hearings, and shall contain information and data on jurisdictional determinations and other relevant information which may aid the Legislature in evaluating the scope and impact of the vegetative index. The report shall contain recommendations on modifications which the committee feels should be made to the vegetative index.

Section 17. Subsection (30) is added to section 403.061, Florida Statutes, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules and regulations adopted and promulgated by it and, for this purpose, to:

(30) *Establish requirements by rule that reasonably protect the public health and welfare from electric and magnetic fields associated with existing 230 kV or greater electrical transmission lines, new 230 kV and greater electrical transmission lines for which an application for certification under the Transmission Line Siting Act, ss. 403.52-403.536, is not filed, new or existing electrical transmission or distribution lines with voltage less than 230 kV, and substation facilities. Notwithstanding any other provision in chapter 403, or other law of this state or political subdivision thereof, the department shall have exclusive jurisdiction in the regulation of electric and magnetic fields associated with all electrical transmission and distribution lines and substation facilities. However, nothing herein shall be construed as superseding or repealing the provisions of s. 403.523(1) and (14).*

Section 18. There is hereby appropriated from the Regulatory Trust Fund of the Florida Public Service Commission the sum of \$170,000 to be transferred, pursuant to a mutually agreed upon interagency agreement, to the Grants and Donations Trust Fund of the Department of Environmental Regulation from which is hereby appropriated for the purpose of funding the determination and establishment of standards for electric and magnetic fields as required in ss. 403.061(30) and 403.523(14), Florida Statutes. The Florida Public Service Commission shall ensure, pursuant to the interagency agreement, that the appropriated funds are used only for this stated purpose.

Section 19. Subsection (2) of section 501.122, Florida Statutes, is amended to read:

501.122 Control of nonionizing radiations; laser; penalties.—

(2) **AUTHORITY TO ISSUE REGULATIONS.**—*Except for electrical transmission and distribution lines and substation facilities subject to regulation by the Department of Environmental Regulation pursuant to chapter 403, the department shall promulgate such rules and regulations as it may determine to be necessary to protect the health and safety of persons exposed to laser devices and other nonionizing radiation, including the user or any others who might come in contact with such radiation. The department is further authorized:*

(a) *To develop a program for registration of laser devices and uses and of identifying and controlling sources and uses of other nonionizing radiations.*

(b) *To maintain liaison with, and receive information from, industry, industry associations, and other organizations or individuals relating to present or future radiation-producing products or devices.*

(c) *To study and evaluate the degree of hazard associated with the use of laser devices or other sources of radiation.*

(d) *To establish and prescribe performance standards for laser and other radiation control if it determines that such standards are necessary for the protection of the public health.*

(e) To amend or revoke any performance standard established under the provisions of this section.

Section 20. Subsection (14) of section 403.523, Florida Statutes, is amended to read:

403.523 Department of Environmental Regulation; powers and duties.—The department shall have the following powers and duties:

(14) To set requirements that reasonably protect the public health, safety, and welfare from the electric and magnetic fields of transmission lines for which an application is filed after the effective date of this act.

Section 21. Subsection (13) of section 403.803, Florida Statutes, is amended to read:

403.803 Definitions.—When used in this act, the term, phrase, or word:

(13) "Standard" means any rule of the Department of Environmental Regulation relating to air and water quality, noise, and solid-waste management, and electric and magnetic fields associated with electrical transmission and distribution lines and substation facilities. The term "standard" does not include rules of the department which relate exclusively to the internal management of the department, the procedural processing of applications, the administration of rulemaking or adjudicatory proceedings, the publication of notices, the conduct of hearings, or other procedural matters.

Section 22. The amendments to ss. 403.061, 403.523, 403.803, and 501.122, Florida Statutes, as provided in this act, are not intended to reflect the prior legislative intent of ss. 403.52-403.539, Florida Statutes, or imply in any manner what procedures were proper prior to the effective date of this act.

Section 23. Subsection (3) of section 403.931, Florida Statutes, is amended to read:

403.931 Alteration of mangroves; permit procedure.—

(3) The department on or before September 30, 1986, shall adopt a general permit in accordance with s. 403.814, which permit authorizes the alteration of mangroves in accordance with procedures designed to protect the integrity of mangrove trees. The department shall on or before September 30, 1986, establish a special general permit to allow for alteration of mangroves in manmade canals constructed after January 1, 1957, which were upland of waters of the state as defined in section 403.817, and are not directly connected to a Class II water body, or to Outstanding Florida Waters.

(Renumber subsequent section.)

Amendment 2—On page 28, line 15, strike "15" and insert: 45

Amendment 3—On page 28, strike all of lines 24 and 25 and insert: sum of \$764,652 to be used for 26 positions. Six of these positions are authorized for the new permit processing unit authorized in Section 26 of this act, and the remaining positions are authorized to carry out the department's enforcement responsibilities.

Amendment 4—On page 16, between lines 24 and 25 insert: Nothing in (b) shall prohibit the department from taking appropriate enforcement action pursuant to this chapter to abate or prohibit any activity otherwise exempt from permitting pursuant to this subsection if the department can demonstrate that the exempted activity has caused water pollution in violation of this chapter.

Amendment 5—On page 20, strike all of lines 26-31.

Senator McPherson moved the following amendment which was adopted:

Amendment 6—On page 12, between lines 11 and 12 insert:

Section 9. Subsection (1) of section 403.506, Florida Statutes, is amended to read:

403.506 Applicability and certification.—

(1) The provisions of this chapter shall apply to any electrical power plant as defined herein, except that the provisions of the Power Plant Siting Act shall not apply to any electrical power plant or steam generating plant of less than 60 75 megawatts in capacity unless the applicant has elected to apply for certification under this act. No construction of

any new electrical power plant or expansion in steam generating capacity of any existing electrical power plant may be undertaken after October 1, 1973, without first obtaining certification in the manner as herein provided, except that this act shall not apply to any such electrical power plant which is presently operating or under construction or which has, upon the effective date of chapter 73-33, Laws of Florida, applied for a permit or certification under requirements in force prior to the effective date of such act.

(Renumber subsequent sections.)

Senator Stuart moved the following amendment which was adopted:

Amendment 7—On page 26, strike all of lines 1-4 and renumber subsequent sections.

Senator McPherson moved the following amendments which were adopted:

Amendment 8—On page 12, lines 25-31 and on page 13, lines 1-10 strike all of said lines and insert:

Section 10. Subsections (1) and (2) of section 403.511, Florida Statutes, are amended to read:

403.511 Effect of certification.—

(1) Subject to the conditions set forth therein, any certification signed by the Governor shall constitute the sole license of the state and any agency as to the approval of the site and construction and operation of the proposed electrical power plant, except for the issuance of department permits required under any federally delegated or approved permit program, and except as otherwise provided in subsection (4).

(2) The certification shall authorize the electric utility named therein to construct and operate the proposed electrical power plant, subject only to the conditions of certification set forth in such certification, and except for the issuance of department permits required under any federally delegated or approved permit program. Except as provided in subsection (4), the certification agreement may include conditions which constitute variances from nonprocedural standards or regulations of any other agency which were expressly considered during the proceeding and which otherwise would be applicable to the construction and operation of the proposed electrical power plant. However, no variance shall be granted from standards or regulations of the department applicable under any federally delegated or approved permit program, except as expressly allowed in such program.

Section 11. Section 403.513, Florida Statutes, is amended to read:

403.513 Review.—Proceedings under this part shall be subject to judicial review as provided in chapter 120. Separate appeals of the certification order issued by the board and any department permit issued pursuant to a federally delegated or approved permit program shall be consolidated for purposes of judicial review.

Section 12. Subsection (5) is added to section 403.516, Florida Statutes, to read:

403.516 Modification of certification.—A certification may be modified after issuance in any one of the following ways:

(5) Any agreement or modification under this section must be in accordance with the terms of this act. No modification to a certification shall be granted that constitutes a variance from standards or regulations of the department applicable under any federally delegated or approved permit program, except as expressly allowed in such program.

Amendment 9—On page 12, after line 24 insert:

(2) Simultaneously with the board's action on the application, the department shall issue or deny any permit required pursuant to any federally delegated or approved permit program. The department's decision to issue or deny the permit shall be based upon the record and recommended order of the certification hearing. Unless the federally delegated or approved permit program provides otherwise, permits issued by the department under this subsection shall be effective for the term of the certification issued by the board. If renewal of any permit issued by the department pursuant to a federally delegated or approved

permit program is required, such renewal shall not affect the certification issued by the board.

(3) (2) In regard to the properties and works of any agency which is a party to the certification hearing, the board shall have the authority to decide issues relating to the use, the connection thereto, or the crossing thereof, for the electrical power plant site and to direct any such agency to execute, within 30 days of the entry of certification, the necessary license or easement for such use, connection, or crossing, subject only to the conditions set forth in such certification.

(4) (3) The issuance or denial of certification by the board and the issuance or denial of any related department permit required pursuant to any federally delegated or approved permit program shall be the final administrative action required as to that application.

Amendment 10—On page 13, line 11, insert:

Section 13. Subsection (2) of section 403.503, Florida Statutes, is amended and subsection (17) is added to said section to read:

403.503 Definitions.—

(2) "Application" means the documents required by the department to be filed to institute a certification proceeding, and shall include the documents necessary for the department to render a decision on any permit required pursuant to any federally delegated or approved permit program.

(17) "Federally delegated or approved permit program" means any environmental regulatory program approved by an agency of the federal government so as to authorize the department to administer and issue permits pursuant to federal law, including but not limited to new source review and prevention of significant determination permits under the Clean Air Act (42 USC ss 7401 et seq.), permits under sections 402 and 404 of the Clean Water Act, (33 USC ss 1251, et seq.), and permits under the Resource Conservation and Recovery Act, (42 USC ss 6901 et seq.)

Section 14. Subsections (8) and (9) of section 403.504, Florida Statutes are amended, and subsection (14) is added to said section to read:

403.504 Department of Environmental Regulation; powers and duties enumerated.—The Department of Environmental Regulation shall have the following powers and duties in relation to this act:

(8) To prepare a written analysis which shall be filed with the designated hearing officer and served on all parties no later than 8 months after the complete application is filed with the department, and which shall include:

(a) A statement indicating whether the proposed electrical power plant and proposed ultimate site capacity will be in compliance with the rules of the department, including any notice of proposed department action regarding any permit required pursuant to a federally delegated or approved permit program.

(b) The report from the Public Service Commission as required by ss. 403.507 and 403.519.

(c) The report of the Department of Community Affairs as required by s. 403.507.

(d) The report from the water management district as required by s. 403.507.

(e) The studies conducted pursuant to s. 403.507.

(f) The comments received by the department from any other agency.

(g) The recommendation of the department as to the disposition of the application and any proposed conditions of certification which the department believes should be imposed.

(9) To provide adequate public notice of the filing of the application and of the proceedings conducted pursuant to this part, including the notice requirements applicable under any federally delegated or approved permit program.

(14) To issue simultaneously with the electrical power plant certification, any permit required pursuant to any federally delegated or approved permit program.

Section 15. Subsection (3) is added to section 403.506, Florida Statutes, to read:

403.506 Applicability and certification.—

(3) The application for any related department permit which is required pursuant to any federally delegated permit which is required pursuant to any federally delegated or approved permit program, shall be processed within the time frames allowed by this act, in lieu of those specified in s. 120.60.

Section 16. Paragraph (i) is added to subsection (2) of Section 403.507, Florida Statutes to read:

403.507 Reports and studies.—

(2) As needed to verify or supplement the studies made by the applicant in support of the application, it shall be the duty of the department to conduct, or contract for, studies of the proposed electrical power plant and site, including but not limited to the following:

(i) Requirements applicable under any federally delegated or approved permit program.

Section 17. Subsection (3) of section 403.508, Florida Statutes, is amended to read:

403.508 Proceedings, parties, participants.—

(3) A certification hearing shall be held by the designated hearing officer no later than 10 months after the complete application is filed with the department; however, an affirmative determination of need by the Public Service Commission pursuant to s. 403.519 shall be a condition precedent to the conduct of the certification hearing. The certification hearing shall also constitute the sole hearing allowed by chapter 120 to determine the substantial interest of a party regarding any related permit required pursuant to any federally delegated or approved permit program. At the conclusion of the certification hearing, the designated hearing officer shall, after consideration of all evidence of record, submit to the board a recommended order no later than 12 months after receipt of the complete application by the department.

(Renumber subsequent sections.)

Senator Frank moved the following amendment which was adopted:

Amendment 11—On page 28, between lines 25 and 26, insert:

Section 29. (1) As used in this section, "urban rivers" means a predominantly freshwater body which flows in an essentially natural channel through the corporate boundary of any municipality with a population over 50,000; or any river which is severely affected by urban activities.

(2)(a) The Urban Rivers Study Committee is hereby created. The committee shall be composed of nine members. The Governor shall appoint five members, and the President of the Senate and the Speaker of the House of Representatives shall each appoint two members. The chairperson shall be elected by a majority of the members. Appointments shall be made by July 31, 1986, if possible; and the committee is abolished on July 31, 1987.

(b) Each committee member is entitled to receive per diem and travel expenses, as provided in s. 112.061, Florida Statutes, while carrying out official business of the committee.

(c) The committee shall be assigned for administrative purposes to the Department of Community Affairs. The Department of Community Affairs, Department of Environmental Regulation, the Department of Natural Resources, and other state agencies shall provide assistance when requested by the committee.

(3) The committee shall:

(a) Establish criteria for the identification of all urban rivers in the state;

(b) Identify the urban rivers to be studied using the established criteria; and

(c) Prepare a report to the Legislature which describes problems and key issues relating to existing water quality in urban rivers, existing and

projected land uses adjacent to urban rivers, storm water discharge into urban rivers, and any other concerns relating to urban rivers.

(d) Make recommendations to the Legislature for legislation that will protect and improve water quality in urban rivers, minimize the deleterious effects of stormwater discharges into urban rivers, provide for planning for the uses of land adjacent to urban rivers so as to reduce negative impacts associated with such use, improve intergovernmental coordination so as to enhance the integrity of urban rivers, and address any other issues that are determined to be critical.

(4) There is hereby appropriated from General Revenue the sum of \$50,000 to the Department of Community Affairs to carry out its responsibilities under this section.

(Renumber subsequent sections.)

Senator Stuart moved the following amendment which was adopted:

Amendment 12—In title, on page 2, line 23, after "appropriations" insert: amending s. 403.523, F.S.; providing powers and duties for the Department of Environmental Regulation; amending s. 403.803, F.S.; providing definitions; amending s. 403.931, F.S.; providing for alteration of mangroves; amending s. 501.122, F.S.; providing for control of non-ionizing radiations;

Senator Frank moved the following amendment which was adopted:

Amendment 13—In title, on page 1, line 23, after the semicolon (;) insert: defining "urban rivers"; establishing the Urban Rivers Study Committee; requiring the committee to undertake a study and to make recommendations to the Legislature regarding urban rivers; providing an appropriation to the Department of Community Affairs for such study;

On motion by Senator Stuart, by two-thirds vote CS for CS for SB 607 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

| | | | |
|-----------------|-------------|-----------|-----------|
| Mr. President | Frank | Kiser | Plummer |
| Beard | Gersten | Langley | Scott |
| Childers, D. | Girardeau | Malchon | Stuart |
| Childers, W. D. | Grizzle | Mann | Thurman |
| Crawford | Hair | Margolis | Vogt |
| Crenshaw | Hill | McPherson | Weinstein |
| Deratany | Jennings | Meek | |
| Dunn | Johnson | Myers | |
| Fox | Kirkpatrick | Neal | |

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Peterson

CS for CS for SB 850—A bill to be entitled An act relating to natural resources; amending s. 253.023, F.S.; providing for additional moneys to be deposited in the Conservation and Recreation Lands Trust Fund; transferring certain moneys to the Land Acquisition Trust Fund for a certain purpose; specifying that a certain percentage of the fund will be used for management, maintenance, and capital improvements; specifying purpose and manner of management of lands acquired through the Conservation and Recreation Lands Trust Fund; amending s. 373.59, F.S.; providing for annual allocation of moneys in the Water Management Lands Trust Fund for management, maintenance, and capital improvements; requiring inclusion of certain findings in management plans; amending s. 375.041, F.S.; prohibiting certain uses of the Land Acquisition Trust Fund; authorizing the Department of Natural Resources to acquire specific parcels of land by eminent domain; providing an effective date.

—was read the second time by title.

Senator Stuart moved the following amendment which failed:

Amendment 1—On page 2, lines 20-31, and on page 3, lines 1 and 2, strike all of said lines and insert: ~~\$25 million in fiscal year 1984-1985, \$35 million in fiscal year 1985-1986, or \$40 million in any fiscal year thereafter~~, the department shall deposit the excess into the General Revenue Fund.

(b) *There shall annually be transferred from the fund to the Land Acquisition Trust Fund the sum of \$10 million to be used to pay the debt service on bonds issued pursuant to s. 375.051, F.S., to acquire lands on the established priority list as determined by the selection committee pursuant to s. 259.035, F.S.; provided, however, that no moneys transferred to the Land Acquisition Trust Fund pursuant to this subsection or, earnings thereon, shall be used to pay debt service on Save Our Coast bonds. Any interest earnings on moneys derived from a bond issue pursuant to this subsection shall be deposited in the Conservation and Recreation Lands Trust Fund. No offer by the state for lands acquired pursuant to this subsection may exceed 70% of the appraised value as determined in s. 253.025(7), F.S.*

Senator Stuart moved the following amendments which were adopted:

Amendment 2—On page 11, line 30, insert:

Section 6. Section 373.504, Florida Statutes, is created to read:

373.504 Use Surcharges.—The Northwest Florida Water Management District is hereby authorized to impose by rule a water use surcharge, not to exceed one mill per gallon, upon all uses of water for which a consumptive use permit is required pursuant to this chapter and the rules of the district. The revenues received by the district shall be used for collection and administration of the surcharge and for the purpose of carrying out the duties and responsibilities of the district.

(Renumber subsequent section.)

Amendment 3—In title, on page 1, line 22, after "domain;" insert: ; creating section 373.504 authorizing water use surcharge;

Further consideration of CS for CS for SB 850 as amended was deferred.

Reconsideration

On motion by Senator Stuart, the Senate reconsidered the vote by which—

HB 1198—A bill to be entitled An act relating to land reclamation; creating part III of chapter 378, F.S., the Phosphate Land Reclamation Act; providing intent and definitions; specifying applicability; providing powers and duties of the Department of Natural Resources with respect to phosphate mine reclamation; providing for memoranda of agreement with other agencies; providing for adoption of statewide reclamation criteria and standards; requiring certain financial responsibility; providing for submittal of operators' financial statements; providing for confidentiality and for review and repeal thereof; establishing a schedule for completion of reclamation; providing for injunctive relief and damages; providing for civil penalties; providing for recovery against financial security; requiring notice of violation; providing for variances; creating part IV of chapter 378, F.S., the Resource Extraction Reclamation Act; providing intent and definitions; providing powers and duties of the department with respect to reclamation of lands disturbed by extraction of other resources; providing review procedures; providing for public access to information and confidentiality of certain records; providing for review and repeal; providing for inspections; providing for injunctive relief; specifying civil liability of noncomplying operators; authorizing certification of local governments or the Department of Transportation to carry out certain duties under the act; specifying relationship to other laws; requiring notice of intent to mine by extractors of limestone, heavy minerals, fuller's earth clay, and other specified resources; requiring conceptual reclamation plans with respect to mining of heavy minerals and fuller's earth clay; providing reclamation performance standards; specifying application to existing mines; providing an exemption; amending s. 211.32, F.S., relating to criteria for mandatory reclamation programs for taxpayers subject to tax on severance of solid minerals; providing an effective date.

—as amended passed this day.

Senator Stuart moved the following amendments which were adopted:

Amendment 7—In title, on page 2, line 16, after "minerals;" insert: amending s. 378.101, F.S.; authorizing the board of directors of the Florida Institute of Phosphate Research to adopt rules; providing a short title; providing definitions; providing for public advertisement of research services contracts of the Florida Institute of Phosphate Research; providing qualifications for firms to compete for such contracts; establishing procedures for the competitive selection of firms; pro-

viding procedures for competitive negotiation by the institute; prohibiting contingent fees; providing penalties; exempting existing contracts from the act; amending section 378.034, F.S.; limiting the acquisition of nonmandatory lands to a certain percentage of funds in the Nonmandatory Land Reclamation Trust Fund; amending s. 253.023, F.S.; transferring certain moneys to the Land Acquisition Trust Fund for a certain purpose; specifying that a certain percentage of the fund will be used for management, maintenance, and capital improvements; specifying purpose and manner of management of lands acquired through the Conservation and Recreation Lands Trust Fund; amending s. 373.59, F.S.; providing for annual allocation of moneys in the Water Management Lands Trust Fund for management, maintenance, and capital improvements; requiring inclusion of certain findings in management plans; amending s. 375.041, F.S.; prohibiting certain uses of the Land Acquisition Trust Fund; authorizing the Department of Natural Resources to acquire specific parcels of land by eminent domain; amending s. 211.32, F.S.; deleting provision for injunctive relief;

Amendment 8—In title, on page 1, line 2, strike "Land Reclamation" and insert: Natural Resources

HB 1198 as amended was read by title, passed, and certified to the House. The vote on passage was:

Yeas—34

| | | | |
|---------------|-------------|-----------|-----------|
| Mr. President | Frank | Kiser | Peterson |
| Barron | Gersten | Langley | Plummer |
| Beard | Girardeau | Malchon | Scott |
| Childers, D. | Grant | Mann | Stuart |
| Crawford | Grizzle | Margolis | Thomas |
| Crenshaw | Hill | McPherson | Thurman |
| Deratany | Jennings | Meek | Weinstein |
| Dunn | Johnson | Myers | |
| Fox | Kirkpatrick | Neal | |

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Vogt

SPECIAL ORDER, continued

On motions by Senator Plummer, by two-thirds vote HB 292 was withdrawn from the Committees on Natural Resources and Conservation, Finance, Taxation and Claims and Appropriations.

On motion by Senator Plummer—

HB 292—A bill to be entitled An act relating to natural resources; creating the "Florida Coral Reefs Restoration Trust Fund Act"; providing legislative findings and purposes; creating the Coral Reefs Restoration Trust Fund in the Department of Natural Resources and providing for deposit of certain damages recovered by the state therein; prescribing purposes and procedures for expenditures from the fund; providing an effective date.

—a companion measure, was substituted for CS for SB 426 and read the second time by title. On motion by Senator Plummer, by two-thirds vote HB 292 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

| | | | |
|-----------------|-----------|-----------|-----------|
| Mr. President | Fox | Jennings | Myers |
| Barron | Frank | Johnson | Neal |
| Beard | Gersten | Kiser | Peterson |
| Childers, D. | Girardeau | Langley | Plummer |
| Childers, W. D. | Gordon | Malchon | Scott |
| Crawford | Grant | Mann | Stuart |
| Crenshaw | Grizzle | Margolis | Thurman |
| Deratany | Hair | McPherson | Weinstein |
| Dunn | Hill | Meek | |

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Kirkpatrick, Vogt

CS for SB 426 was laid on the table.

CS for SB 99—A bill to be entitled An act relating to the Department of Natural Resources; amending s. 370.021, F.S.; providing findings; providing that law enforcement officers may inspect saltwater products kept in certain areas aboard vessels; creating s. 370.022, F.S.; providing authority for inspections by law enforcement officers on or within the vicinity of vessels or under certain circumstances; providing an effective date.

—was read the second time by title.

Senator McPherson moved the following amendment:

Amendment 1—On page 1, line 10, strike everything after the enacting clause and insert:

Section 1. Subsection (5) of section 370.021, Florida Statutes, 1984 Supplement, is amended to read:

370.021 Administration; rules, publications, records; penalty for violation of chapter; injunctions.—

(5)(a) **POWERS OF OFFICERS.**—The department may designate such employees of the several divisions, as it may deem necessary in its discretion, as law enforcement officers, who shall meet the provisions of s. 943.13(1)-(10) and have the powers and duties conferred in this subsection, except that such employees shall comply with the provisions of chapter 943. Such officers, together with the executive director and the Director of the Division of Law Enforcement, are constituted law enforcement officers of this state with full power to investigate and arrest for any violation of the laws of this state and the rules and regulations of the department under their jurisdiction and for violations of chapter 253 and the rules and regulations promulgated thereunder. The general laws applicable to arrests by peace officers of this state shall also be applicable to such law enforcement officers. Such law enforcement officers may enter upon any land or waters of the state for performance of their lawful duties and may take with them any necessary equipment, and such entry will not constitute a trespass. It is lawful for any boat, motor vehicle, or aircraft owned or chartered by the department or its agents or employees to land on and depart from any of the beaches or waters of the state. Such law enforcement officers have the authority, without warrant, to board, inspect, and search any boat, fishing appliance, storage or processing plant, fishhouse, spongehouse, oysterhouse, or other warehouse, building, or vehicle engaged in transporting or storing any fish or fishery products. Such authority to search and inspect without a search warrant is limited to those cases in which such law enforcement officers have reason to believe that fish or any saltwater products are taken or kept for sale, barter, transportation, or other purposes in violation of laws or rules promulgated under this law. Any such law enforcement officer may at any time seize or take possession of any saltwater products or contraband which have been unlawfully caught, taken, or processed or which are unlawfully possessed or transported in violation of any of the laws of this state or any rule or regulation of the department. Such law enforcement officers may arrest any person in the act of violating any of the provisions of this law, the rules or regulations of the department, or the provisions of chapter 253 and the rules and regulations promulgated thereunder or any of the laws of this state. It is hereby declared unlawful for any person to resist such arrest or in any manner interfere, either by abetting or assisting such resistance or otherwise interfering, with any such law enforcement officer while engaged in the performance of the duties imposed upon him by law or regulation of the department.

(b) *The Legislature finds that the routine checking and inspection of saltwater products aboard vessels is critical to good fishery management and conservation and that, because almost all saltwater products are either iced or cooled in closed areas or containers, the enforcement of seasons, size limits and bag limits can only be effective when inspection of saltwater products so stored is immediate and routine. Therefore, in addition to the authority granted in paragraph (a), law enforcement officers of the department shall have full authority to open and inspect all containers or areas where saltwater products are normally kept aboard vessels, while such vessels are on the water, including, but not limited to, all refrigerated or iced locations, coolers, built-in fish boxes and bait wells.*

Section 2. This act shall take effect October 1, 1986.

Senator Langley moved the following amendment to Amendment 1 which was adopted:

Amendment 1A—On page 3, strike all of lines 13-16 and insert: *where saltwater products are normally kept aboard vessels, while such*

vessels are on the water, including, but not limited to, all refrigerated or iced locations, coolers, built-in fish boxes and bait wells, except for such containers that are located in sleeping or living areas of the vessel.

Senators Scott and Gordon offered the following amendment to Amendment 1 which was moved by Senator Gordon:

Amendment 1B—On page 3, line 11, after “paragraph (a)” insert: *and upon a finding of probable cause,*

Further consideration of CS for SB 99 was deferred.

The Senate resumed consideration of—

CS for CS for SB 850—A bill to be entitled An act relating to natural resources; amending s. 253.023, F.S.; providing for additional moneys to be deposited in the Conservation and Recreation Lands Trust Fund; transferring certain moneys to the Land Acquisition Trust Fund for a certain purpose; specifying that a certain percentage of the fund will be used for management, maintenance, and capital improvements; specifying purpose and manner of management of lands acquired through the Conservation and Recreation Lands Trust Fund; amending s. 373.59, F.S.; providing for annual allocation of moneys in the Water Management Lands Trust Fund for management, maintenance, and capital improvements; requiring inclusion of certain findings in management plans; amending s. 375.041, F.S.; prohibiting certain uses of the Land Acquisition Trust Fund; authorizing the Department of Natural Resources to acquire specific parcels of land by eminent domain; providing an effective date.

—as amended.

On motion by Senator Crawford, the Senate reconsidered the vote by which Amendments 2 and 3 were adopted.

Amendments 2 and 3 failed.

On motion by Senator Crawford, by two-thirds vote CS for CS for SB 850 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Johnson | Neal |
| Barron | Gersten | Kirkpatrick | Peterson |
| Beard | Girardeau | Kiser | Plummer |
| Childers, D. | Gordon | Langley | Scott |
| Childers, W. D. | Grant | Malchon | Stuart |
| Crawford | Grizzle | Mann | Thomas |
| Crenshaw | Hair | Margolis | Thurman |
| Deratany | Hill | McPherson | Vogt |
| Dunn | Jenne | Meek | Weinstein |
| Fox | Jennings | Myers | |

Nays—None

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Neal, by two-thirds vote HB 52, CS for SB 27, CS for SB 841, SB 955, SB 1123, CS for SB 1096 and SB 396 were withdrawn from the Committee on Appropriations.

On motion by Senator Jenne, the Senate recessed at 12:01 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—39:

| | | | |
|-----------------|-----------|-------------|-----------|
| Mr. President | Fox | Johnson | Neal |
| Barron | Frank | Kirkpatrick | Peterson |
| Beard | Girardeau | Kiser | Plummer |
| Castor | Gordon | Langley | Scott |
| Childers, D. | Grant | Malchon | Stuart |
| Childers, W. D. | Grizzle | Mann | Thomas |
| Crawford | Hair | Margolis | Thurman |
| Crenshaw | Hill | McPherson | Vogt |
| Deratany | Jenne | Meek | Weinstein |
| Dunn | Jennings | Myers | |

Consideration of Resolution

On motion by Senator Plummer, by two-thirds vote SR 1341 was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Plummer—

SR 1341—A resolution commending the United States Navy.

WHEREAS, Florida and the United States Navy have been working together for centuries to guard America's shores, and

WHEREAS, that spirit of kinship is particularly strong in the Florida Keys, our state's extension in the Caribbean, and

WHEREAS, the latest symbol of that kindred spirit is the USS KEY WEST, an attack submarine launched in 1985 and now being outfitted in preparation for joining the fleet in 1987, and

WHEREAS, the 360-foot USS KEY WEST is the third vessel to bear the name of the United States' southernmost city, following the tradition of a stern-wheel gunboat built in 1862 and a frigate commissioned in 1944, and

WHEREAS, the newest USS KEY WEST, the 15th Los Angeles-class submarine launched at the Newport News Shipbuilding and Drydock Company, is designed to secure American shores and shipping by hunting enemy submarines, and

WHEREAS, the USS KEY WEST will be commissioned and begin sea trials in early 1987, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Senate of the State of Florida thanks the United States Navy for giving the name Key West to a sentinel for peace and wishes God-speed and good sailing to the officers and men of the USS KEY WEST.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the Senate affixed, be presented to Warren Neilson Lipscomb, JR., Commander of the USS KEY WEST and representing the United States Navy, as a tangible token of the sentiments expressed herein.

—was taken up out of order by unanimous consent, read the second time in full and unanimously adopted.

The President requested Senator Plummer to escort Commander Warren Neilson Lipscomb, Jr. to the rostrum where he was presented a copy of the resolution.

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for SB 99—A bill to be entitled An act relating to the Department of Natural Resources; amending s. 370.021, F.S.; providing findings; providing that law enforcement officers may inspect saltwater products kept in certain areas aboard vessels; creating s. 370.022, F.S.; providing authority for inspections by law enforcement officers on or within the vicinity of vessels or under certain circumstances; providing an effective date.

—with pending Amendment 1B.

Amendment 1B—On page 3, line 11, after “paragraph (a)” insert: *and upon a finding of probable cause,*

Senator Dunn presiding

The President presiding

Amendment 1B was adopted. The vote was:

Yeas—26

| | | | |
|-----------------|-----------|----------|-----------|
| Barron | Deratany | Jennings | Peterson |
| Beard | Girardeau | Johnson | Plummer |
| Castor | Gordon | Kiser | Scott |
| Childers, D. | Grant | Langley | Thomas |
| Childers, W. D. | Grizzle | Margolis | Weinstein |
| Crawford | Hair | Meek | |
| Crenshaw | Hill | Myers | |

Nays—11

| | | | |
|---------------|---------|-----------|--------|
| Mr. President | Frank | Mann | Stuart |
| Dunn | Jenne | McPherson | Vogt |
| Fox | Malchon | Neal | |

Further consideration of CS for SB 99 was deferred.

On motion by Senator Thurman, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives has receded from House Amendments 1 and 2, further amended, and passed as further amended —

CS for CS for SB 206—A bill to be entitled An act relating to environmental protection; amending s. 215.22, F.S.; authorizing certain administrative deductions from the Port Trust Fund; amending s. 376.11, F.S., relating to the Florida Coastal Protection Trust Fund; providing a definition; deleting provisions relating to acquisition and improvement of spoil disposal sites for designated ports; reducing the limits of the fund; deleting provisions relating to administration of the trust fund; authorizing the loan of certain moneys from the fund to the Inland Protection Trust Fund and the transfer of certain moneys to the Port Trust Fund; creating s. 376.22, F.S.; establishing the Port Trust Fund for acquisition and improvement of spoil disposal sites for designated ports; amending s. 376.30; revising legislative intent with respect to ss. 376.30-376.317, F.S.; authorizing the establishment of a program for restoring or replacing potable water systems or potable water wells contaminated with pollutants; authorizing reimbursement of the Department of Health and Rehabilitative Services for certain services; amending s. 376.301, F.S.; adding definitions of terms used in ss. 376.30-376.317, F.S.; creating s. 376.3025, F.S.; making it unlawful to intentionally damage a petroleum storage system or petroleum product pipeline; providing a penalty; amending s. 376.303, F.S.; revising powers and duties of the Department of Environmental Regulation under ss. 376.30-376.317, F.S.; creating s. 376.304, F.S.; fixing fees with respect to registration of pollutant storage systems and petroleum product pipelines; providing for deposit in the Inland Protection Trust Fund and the Water Quality Assurance Trust Fund; providing for issuance and display of registration certificates; amending s. 376.305, F.S.; revising cross-references to conform to this act; providing that an undertaking to contain, remove, or abate a discharge of a pollutant is not an admission of responsibility for the discharge; creating s. 376.3071, F.S.; establishing the Inland Protection Trust Fund to be used for the purposes of ss. 376.30-376.317, F.S., and to respond to incidents of environmental contamination related to petroleum product discharges; providing for funding of the fund from the Florida Coastal Protection Trust Fund and other sources; creating part IV of chapter 206, F.S., consisting of ss. 206.9915-206.9945, F.S.; providing legislative intent; providing definitions; imposing certain excise taxes on the sale or use of pollutants; providing for administration, collection, and distribution of the tax; providing penalties; establishing a temporary petroleum product detection incentive program for reporting petroleum storage system and petroleum product pipeline leaks; limiting certain information as to evidence of liability; authorizing reimbursement of site cleanup costs for certain persons; creating s. 376.3075, F.S.; providing for criteria for cleanup of sites contaminated by petroleum products and for cessation of cleanup activities; creating s. 376.3077, F.S.; authorizing the Department of Environmental Regulation to contract with local governments for the administration of cleanup and other responsibilities through locally administered programs; amending s. 376.308, F.S.; revising cross-references to conform with this act; conforming terminology; amending s. 376.309, F.S.; revising cross-references to conform with this act; providing for manner of bringing claims; amending s. 376.313, F.S.; revising cross-references to conform with this act; creating s. 376.314, F.S.; authorizing the department to hold harmless and indemnify certain response action contractors; requiring the department to adopt rules providing standards for indemnification; providing criteria; amending ss. 376.315, 403.091, F.S.; revising cross-references to conform with this act; amending s. 403.1655, F.S.; authorizing the Department of Environmental Regulation to use the Water Quality Assurance Trust Fund or the Inland Protection Trust Fund to respond to certain incidents in an emergency; creating s. 403.7245, F.S.; authorizing the department to hold harmless and indemnify certain response action contractors; requiring the department to adopt rules providing standards for indemnification; providing for criteria; transferring s. 376.307, F.S., to s. 403.7255, F.S., and amending said section; revising purposes for which the Water Quality Assurance Trust Fund may be expended; providing for collection of the excise tax; providing for actions to reimburse the trust fund; deleting provisions relating to the administration of the trust fund; amending s. 403.726, F.S.; providing for use of moneys in the Inland Protection Trust Fund to abate imminent hazards caused by hazardous substances; amending s. 489.105, F.S.; defining the terms "petroleum storage systems specialty contractor," "pollutant storage tank," and "tank" with respect to regulating the practice of contracting; amending s. 489.113, F.S.; requiring rules

to be adopted for certifying petroleum storage system specialty contractors; providing for temporary certification; prohibiting practice by uncertified persons; providing for inspection of installation or construction of pollutant storage tanks; providing for delegation of responsibilities; providing for injunctions against installation or construction of pollutant storage tanks; requiring notice of certification requirements to certain mechanical and plumbing contractors; amending s. 489.127, F.S.; providing penalties for violations; providing for future repeal and review of provisions of the act relating to petroleum storage systems specialty contractors; amending s. 570.07, F.S.; requiring the Department of Agriculture and Consumer Services to notify the Department of Environmental Regulation with respect to unregistered tanks; creating a Financial and Technical Advisory Committee; providing for duties, membership, terms, meetings of the committee; amending s. 376.11, F.S.; providing for crediting certain excise taxes to the Florida Coastal Protection Trust Fund; providing legislative intent; exempting the Department of Revenue from certain provisions of chapters 283, 287, F.S.; creating s. 206.485, F.S.; providing certain tracking system reporting requirements; providing an effective date.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Amendment 3—On page 5, line 23, strike everything after the enactment clause and insert:

Section 1. *Short title.*—This act shall be known and may be cited as the "State Underground Petroleum Environmental Response Act of 1986."

Section 2. Section 206.485, Florida Statutes, is created to read:

206.485 *Tracking system reporting requirements.*—The information required for tracking movements of petroleum products pursuant to ss. 206.48, 206.08, 206.09, and 206.095, shall be submitted in the manner prescribed by the executive director of the department by rule. The rule shall include, but not be limited to, the data elements, the format of the data elements, and the method and medium of transmission to the department.

Section 3. Part IV of chapter 206, Florida Statutes, consisting of sections 206.9915, 206.9925, 206.9930, 206.9935, 206.9940, 206.9942, and 206.9945, is created; paragraphs (a) and (b) of subsection (4) of section 376.11, Florida Statutes, are redesignated as paragraphs (a) and (b) of subsection (1) of section 206.9935, Florida Statutes, and amended; and paragraphs (a) and (b) of subsection (5) of section 376.307, Florida Statutes, are redesignated as paragraphs (a) and (b) of subsection (2) of section 206.9935, Florida Statutes, and amended, to read:

PART IV FUEL AND OTHER POLLUTANTS

206.9915 *Legislative intent and general provisions.*—

(1) *It is the legislative intent that the excise taxes imposed in this part shall be in addition to all other taxes imposed under this chapter and other provisions of law. The application of any one tax under this part shall not preclude application of any or all of the other taxes provided herein.*

(2) *The provisions of parts I through III of this chapter shall be applicable to the taxes imposed herein only by express reference to this part.*

(3) *The provisions of ss. 206.01, 206.026, 206.027, 206.028, 206.055, 206.06, 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18, 206.19, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22, 206.24, 206.27, 206.28, 206.425, 206.426, 206.44, 206.445, 206.48, 206.49, 206.56, 206.59, 206.86, 206.94, 206.945, and 206.9815 shall, as far as lawful or practicable, be applicable to the levy and collection of taxes imposed pursuant to this part as if fully set out in this part and made expressly applicable to the taxes imposed herein.*

206.9925 *Definitions.*—As used in this part:

(1) "Barrel" means 42 U.S. gallons at 60° Fahrenheit.

(2) "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

(3) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (2).

(4) "Petroleum product" means any refined liquid commodity made wholly or partially from oil or gas, or blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, or blends or mixtures of two or more liquid products or byproducts derived from oil or gas, and includes, but is not limited to, motor gasoline, gasohol, aviation gasoline, naphtha-type jet fuel, kerosene-type jet fuel, kerosene, distillate fuel oil, residual fuel oil, naphtha of less than 400° F for petroleum feed, special naphthas, road oil, still gas, unfinished oils, motor gas blending components, and aviation gas blending components.

(5) "Pollutants" includes any petroleum product as defined in subsection (4), as well as pesticides, ammonia, chlorine, and derivatives thereof, but excludes liquefied petroleum gas, medicinal oils, lubricants and waxes. For the purpose of the tax imposed under s. 206.9935(1), "pollutants" also includes crude oil.

(6) "Storage facility" means a location licensed under s. 206.022 and owned or operated by a licensed refiner, which location contains any stationary tank or tanks for holding petroleum products.

206.9930 Administrative provisions.—

(1) Any person producing in, importing into, or causing to be imported into this state taxable pollutants for sale, use or otherwise and who is not registered or licensed pursuant to other parts of this chapter is hereby required to register and become licensed for the purposes of this part. Such persons shall register as either a producer or importer of pollutants and shall be subject to all applicable registration and licensing provisions of this chapter, as if fully set out in this part and made expressly applicable to the taxes imposed herein, including, but not limited to, ss. 206.02, 206.021, 206.022, 206.025, 206.03, 206.04, and 206.05. For the purposes of this section, registrations required exclusively for this part shall be made within 90 days of the effective date of this act for existing businesses, or prior to the first production or importation of pollutants for businesses created after the effective date of this act. The fee for registration shall be \$30. Failure to timely register shall be a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The taxes imposed in this part are due on the first day of the month succeeding the month of production, importation, or removal from a storage facility and shall be paid on or before the 20th day of each month. Taxes shall be reported on forms and in the manner prescribed by the department by rule.

(3) Any person subject to taxation under this part shall separately state the amount of such tax paid on any charge ticket, sales slip, invoice, or other tangible evidence of the sale of tax-paid pollutants. Any person selling tax-paid pollutants, other than retail dealers, shall certify on the charge ticket, sales slip, invoice or other tangible evidence of sale that the tax required pursuant to this part has been paid. The certification shall contain the identifying number assigned to the person who remitted the tax to the state as prescribed by the department by rule.

(4) All pollutants imported, produced, or sold in this state are presumed to be subject to the taxes imposed by this part. It shall be presumed that all pollutants imported, produced, received, or possessed by any retail dealer are held for sale, use, or distribution within this state. Unless such retail dealer shall have paid the taxes imposed by this part to the person making the sale to him, or have received a statement in such form as may be prescribed by the department to the effect that the taxes imposed by this part have previously been paid to or paid by an identified refiner, importer, wholesaler, or dealer registered under this chapter or to or by an identified person required to pay the taxes, such retail dealer shall pay such taxes directly to the department in accordance with subsection (2).

206.9935 Taxes imposed.—

(1) TAX FOR COASTAL PROTECTION.—

(4)(a)1. There is hereby levied an excise tax for the privilege of producing in, importing into, or causing to be imported into this state pollutants for sale, use, or otherwise, ~~to be collected from and paid by each registrant, including facilities subject to the excise tax levied by ss. 376.30-376.315, an excise tax upon each registrant for the privilege of operating a terminal facility and handling all pollutants covered by ss.~~

~~376.011-376.31, the amount of which is to be determined by the department as measured by the volume in barrels of liquid pollutants transferred to or from the registrant.~~

2. The tax shall be imposed only once on each barrel of pollutant when first produced in or imported into this state; however, the tax on petroleum products first imported into this state by a licensed refiner shall be imposed when the product is first removed or transferred from a storage facility. The tax shall be paid and remitted by any person who is licensed by the department to engage in the production or importation of motor fuel, special fuel, aviation fuel, or other pollutants.

(b) The excise tax shall be 2 cents per barrel of pollutant, or equivalent measure as established by the department, produced in or imported into this state ~~transferred~~ until the balance in the Coastal Protection Trust Fund equals or exceeds \$25 million ~~\$30 million~~. For the fiscal year immediately following the year in which the balance in the fund equals or exceeds \$25 million ~~\$30 million~~, no excise tax shall be levied unless:

1. The balance in the fund is less than or equal to \$20 million ~~\$25 million~~. For the fiscal year immediately following the year in which the balance in the fund is less than or equal to \$20 million ~~\$25 million~~, the excise tax shall be and shall remain 2 cents per barrel or equivalent measure transferred until the fund again equals or exceeds \$25 million ~~\$30 million~~. For the fiscal year immediately following the year in which the fund again is equal to or exceeds \$25 million ~~\$30 million~~, the excise tax and fund shall be controlled as when the fund first was equal to or exceeded \$25 million ~~\$30 million~~.

2. There is a discharge of catastrophic proportions, the results of which could significantly reduce the balance in the fund. In the event of such a catastrophic occurrence, the Governor and Cabinet as the head of the Department of Natural Resources may, by rule, relevy the excise tax in an amount not to exceed 10 cents per barrel for a period of time sufficient to maintain the fund at a balance of \$25 million ~~\$30 million~~, after payment of the costs and damages related to the catastrophic discharge.

3. The fund is unable to pay any proven claims against the fund at the end of the fiscal year. Notwithstanding any other provision of this subsection ~~section~~, for the fiscal year following the year in which the fund is unable to pay any proven claims against the fund at the end of the fiscal year, the excise tax shall be and shall remain 5 cents per barrel or equivalent measure transferred until all outstanding proven claims have been paid and the fund again equals or exceeds \$10 million. For the fiscal year immediately following the year in which the fund, after levy of the 5-cent excise tax, again is equal to or exceeds \$10 million, the excise tax and fund shall be controlled in accordance with subparagraph 1., unless otherwise provided.

4. The fund has had appropriated to it by the Legislature, but has not yet repaid, state funds from the General Revenue Fund. In such event, the excise tax shall continue to be in effect until all such funds are repaid to the General Revenue Fund.

(2) TAX FOR WATER QUALITY.—

(5)(a)1. There is hereby levied an excise tax for the privilege of producing in, importing into, or causing to be imported into this state pollutants for sale, use, or otherwise, ~~to be collected from and paid by a person for the privilege of operating a terminal facility, as defined in s. 376.031(9), and from a person for the privilege of operating a facility not covered by ss. 376.011-376.21, which is served by air, rail, truck, pipeline located in this state, or a vessel, used for the purpose of storing, handling, or transferring pollutants. The state and political subdivisions in this state are exempt from the excise tax.~~

2. The tax shall be imposed only once on each barrel of pollutant when first produced in or imported into this state; however, the tax on petroleum products first imported into this state by a licensed refiner shall be imposed when the product is first removed or transferred from a storage facility. The tax shall be paid and remitted by any person who is licensed by the department to engage in the production or importation of motor fuel, special fuel, aviation fuel, or other pollutants.

(b) The excise tax shall be 2 cents per barrel of pollutant, or equivalent measure as established by the department, produced in or imported into ~~coming to rest in~~ the state, until the balance in the Water Quality Assurance Trust Fund equals or exceeds an unobligated balance of \$12 million, at which time no excise tax shall be levied unless:

1. The balance in the fund is less than or equal to an unobligated balance of \$3 million, in which case the 2-cent tax will resume within 90 days following the end of the month in which such unobligated balance occurs and continue until the balance in the fund again equals or exceeds an unobligated balance of \$12 million.

2. The balance in the fund is insufficient ~~fund is unable~~ to pay any and all proven costs against the fund, in which case the excise tax will be and remain 5 cents per barrel, or equivalent measure ~~established by the department~~, until such proven costs have been paid, or the amount sufficient to pay such costs has accrued to the fund, and the remainder in the fund equals or exceeds \$1.5 million, when the provisions of subparagraph 1. will control.

3. The fund has had appropriated to it by the Legislature, but has not yet repaid, state funds from the General Revenue Fund. In such event, the excise tax will continue to be in effect until all such funds are repaid to the General Revenue Fund.

(3) TAX FOR INLAND PROTECTION.—

(a)1. There is hereby levied an excise tax for the privilege of producing in, importing into, or causing to be imported into this state pollutants for sale, use, or otherwise.

2. The tax shall be imposed only once on each barrel of pollutant when first produced in or imported into this state; however, the tax on petroleum products first imported into this state by a licensed refiner shall be imposed when the product is first removed or transferred from a storage facility. The tax shall be paid or remitted by any person who is licensed by the department to engage in the production or importation of motor fuel, special fuel, aviation fuel, or other pollutants.

(b) The excise tax shall be 10 cents per barrel of pollutant, or equivalent measure as established by the department, produced in or imported into this state. However, if after January 1, 1987, the unobligated balance in the Inland Protection Trust Fund is or falls below \$5 million, the tax shall be increased to 20 cents per barrel of pollutant and remain at said rate until the unobligated balance in said fund exceeds \$15 million, at which time the tax shall be 10 cents per barrel of pollutant. If the unobligated balance of the fund exceeds \$50 million, the levy of the excise tax shall be discontinued until the unobligated balance in the fund falls below \$35 million, at which time the tax shall be 10 cents per barrel of pollutant. Changes in the tax rate pursuant to this subsection shall take effect on the first day of the month which begins on or after the 60th day following the date on which the unobligated balance of said fund falls below or exceeds a limit set pursuant to this paragraph.

(c) This subsection expires on October 1, 1992, and shall be reviewed by the Legislature during the 1992 regular legislative session.

206.9940 Exemptions.—

(1) The following items shall be exempt from the tax imposed under s. 206.9935(3): American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils; intermediate fuel oils (IFO) used by the taxpayer for marine bunkering with a viscosity of 30 and higher; asphalt oil; petrochemical feedstocks; and pesticides, ammonia, chlorine, and derivatives thereof.

(2) Petroleum products exported from the first storage facility at which they are held in this state by the licensed refiner who first imported said products are exempt from the tax imposed under s. 206.9935(3).

(3) Crude oil produced at a well site subject to regulation under s. 377.22 and exported from that site by the producer exclusively by pipeline, truck, or rail to beyond the jurisdiction of this state without intermediate storage or stoppage shall be exempt from the tax imposed under s. 206.9935(1).

(4) Pesticides, ammonia, chlorine, and derivatives thereof shall be exempt from the taxes imposed in s. 206.9935(1) and (2) if, upon initial import into this state, such products are stored in containers having an individual storage capacity of 550 gallons or less, or equivalent measure as prescribed by the department.

206.9942 Refunds and credits.—

(1) A licensed refiner who has purchased tax-paid petroleum products from another licensed refiner and who exports said products from

the state may deduct the amount of tax paid thereon pursuant to s. 206.9935(3) from the amount owed to the state and remitted pursuant to s. 206.9930(2).

(2) Any licensed importer or wholesaler who has purchased tax-paid petroleum products from a licensed refiner and who exports said products from the state may apply for a refund of the amount of tax paid thereon pursuant to s. 206.9935(3). Administrative procedures governing such refunds shall be those specified in s. 212.67, except for the provisions requiring refund permits.

(3) Any licensed importer who has directly remitted the tax pursuant to s. 206.9935(3) and subsequently exports the petroleum product from the state may deduct the tax paid thereon pursuant to s. 206.9935(3) from any amount subsequently owed to the state and remitted pursuant to s. 206.9930(2).

(4) It is the responsibility of the applicant to affirmatively demonstrate to the satisfaction of the department that he is eligible for any deduction or refund claimed hereunder. Without such demonstration, no refund or deduction shall be allowed.

206.9945 Funds collected; disposition; department authority.—

(1) The department shall deposit all funds received and collected by it under this part into the Gas Tax Collection Trust Fund to be transferred, less the costs of administration, and less the service charge to be deducted and deposited in the General Revenue Fund pursuant to ss. 215.20 and 215.22, as follows:

(a) Moneys collected pursuant to s. 206.9935(1) shall be transferred to the Florida Coastal Protection Trust Fund as provided in s. 376.11;

(b) Moneys collected pursuant to s. 206.9935(2) shall be transferred to the Water Quality Assurance Trust Fund as provided in s. 376.307; and

(c) Moneys collected pursuant to s. 206.9935(3), less any refunds granted under s. 206.9942(2), shall be transferred to the Inland Protection Trust Fund as provided in s. 376.3071.

(2) The department is authorized to employ all necessary assistants to administer this part properly and is also authorized to purchase all necessary supplies and equipment and incur such other expense as may be necessary for this purpose.

Section 4. It is the legislative intent that paragraphs (a) and (b) of subsection (1) and paragraphs (a) and (b) of subsection (2) of section 206.9935, Florida Statutes, as created in section 3 of this act, be construed as a reenactment and consolidation of the tax provisions in sections 376.11 and 376.307, Florida Statutes. The current balances in the Florida Coastal Protection Trust Fund and the Water Quality Assurance Trust Fund shall in no way be affected by the reenactment except as explicitly stated in this act.

Section 5. For the purpose of acquiring forms necessary for the initial implementation and administration of section 3 of this act, the Department of Revenue is exempt from the provisions of chapter 283, Florida Statutes, and part I of chapter 287, Florida Statutes. The executive director of the department is specifically authorized to promulgate emergency rules to implement the provisions of this act.

Section 6. Subsections (19) through (38) of section 215.22, Florida Statutes, are renumbered as subsections (18) through (37), respectively, and present subsections (17) and (18) of said section are amended to read:

215.22 Certain moneys and certain trust funds enumerated.—The following described moneys and income of a revenue nature deposited in the following described trust funds, by whatever name designated, shall be those from which the deductions authorized by s. 215.20 shall be made:

(17) ~~The Florida Coastal Protection Trust Fund established pursuant to s. 376.11.~~

(17)(18)(a) All revenues deposited in the ~~Port Water Quality Assurance Trust Fund created pursuant to s. 376.22~~ ~~376.307~~.

The enumeration of the above moneys or trust funds shall not prohibit the applicability thereto of s. 215.24 should the Governor determine that for the reasons mentioned in s. 215.24 the money or trust fund should be

exempt herefrom, as it is the purpose of this law to exempt all trust funds from its force and effect when, by the operation of this law, federal matching funds or contributions to any trust fund would be lost to the state.

Section 7. Subsection (5) of section 376.06, Florida Statutes, is amended to read:

376.06 Operation of terminal facility without registration prohibited.—

(5) The department shall require, in connection with the issuance of a terminal facility registration certificate, the payment of a reasonable fee for processing applications for registration certificates. This fee shall be in addition to the excise tax imposed by s. 206.9935(1) 376.11(4). The fee shall be reasonably related to the administrative costs of verifying data submitted pursuant to obtaining the certificates and reasonable inspections; however, the fee shall not exceed \$250 per terminal facility per year.

Section 8. Subsections (2), (3), and (5) of section 376.11, Florida Statutes, are amended to read:

376.11 Florida Coastal Protection Trust Fund.—

(2) The Florida Coastal Protection Trust Fund is established, to be used by the department as a nonlapsing revolving fund for carrying out the purposes of ss. 376.011-376.21. To this fund shall be credited all ~~excise taxes, registration fees, penalties, judgments, and other fees and charges related to ss. 376.011-376.21 and the excise tax revenues levied, collected, and credited pursuant to ss. 206.9935(1) and 206.9945(1)(a).~~ Charges against the fund shall be in accordance with this section.

(3)(a) Moneys in the fund that are not needed currently to meet the obligations of the department in the exercise of its responsibilities under ss. 376.011-376.21 shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the fund, *except as otherwise specified herein.*

(b)1. Effective from July 1, 1980, through June 30, 1986, 50 percent of the interest earned from investments of the fund when the balance of the fund is greater than \$30 million shall be used for the acquisition of spoil disposal sites and improvements to existing and future spoil sites for the ports of St. Petersburg Bayboro Harbor, Jacksonville, Port Canaveral, Ft. Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, Port St. Joe, Tampa, Panama City, Pensacola, and other navigable waters of the state. In the event that the balance of the fund is reduced to \$30 million or less, the interest normally accruing to the priority acquisition and improvement program for spoil disposal sites shall be discontinued until the balance of the fund exceeds \$30 million. The provisions of this subparagraph shall not apply if the Federal Government preempts the authority to levy, collect, and use an excise tax pursuant to this section or if the Governor and Cabinet declare an emergency related to a major pollutant hazard.

2. *Effective July 1, 1986, funds provided in subparagraph 1. for spoil site acquisition and improvement shall be transferred to the Port Trust Fund established pursuant to s. 376.22.*

~~2.—The Department of Natural Resources shall establish a priority acquisition and improvement program for spoil disposal sites, which sites are to be acquired using moneys from the fund, after considering all recommendations received. Such priority acquisition and improvement program shall take into consideration, but not limit consideration to, the existing need of each port for spoil disposal sites, the frequency and volume of maintenance dredging at each port, the movement of petroleum and other pollutant hazards at each port, the protection of recreational and environmental quality, and whether the proposed site meets the permit requirements of chapters 403 and 253.~~

~~3.—The recipient port authority or appropriate governmental entity shall contribute not less than 50 percent of the cost of the acquisition of a spoil disposal site. Such contribution may include land owned or improvements to the spoil disposal site. The department shall establish procedures for the payment of funds and matching contributions consistent with the provisions herein.~~

~~4.a.—Any moneys received from the sale of dredged materials deposited on a spoil disposal site acquired or improved hereunder, or from the sale of an acquired spoil disposal site, shall be paid to the fund until the~~

~~fund has been reimbursed for its participation in the purchase or improvement of that site. Any remaining funds shall be paid to the contributing governmental entity until that entity has been reimbursed for its contribution. Any funds remaining thereafter shall be paid to the fund.~~

~~b.—Any revenue received, except from the sale of spoil or for revenues pledged as a bonding obligation incurred prior to state participation in the project, after the acquisition or improvement of a disposal site shall be paid to the Florida Coastal Protection Trust Fund until said fund has been reimbursed, with interest, at the statutory legal interest rate, for its participation in the purchase or improvement of said site. Any remaining revenue shall be paid to the applicant. Any revenue received from the sale of spoil shall be repaid in accordance with subparagraph 4.a.~~

(5) Moneys in the Florida Coastal Protection Trust Fund shall be disbursed for the following purposes and no others:

(a) Administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of ss. 376.011-376.21 subject to s. 376.185.

(b) All immediate costs involved in the abatement of pollution related to the discharge of pollutants covered by ss. 376.011-376.21 and the abatement of other potential pollution hazards as authorized herein.

(c) All costs and expenses of the cleanup and rehabilitation of waterfowl, wildlife, and all other natural resources damaged by the discharge of pollutants, whether performed or authorized by the department or any other state or local agency.

(d) All provable costs and damages which are the proximate results of the discharge of pollutants covered by ss. 376.011-376.21.

~~(e) The acquisition of spoil disposal sites and improvements to existing and future spoil sites for the ports of St. Petersburg Bayboro Harbor, Jacksonville, Port Canaveral, Ft. Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, Port St. Joe, Tampa, Panama City, Pensacola, and other navigable waters of the state.~~

~~(f) Loans A one-time expenditure of \$11 million to the Inland Protection Water Quality Assurance Trust Fund created in s. 376.3071 376.307.~~

(g) An annual expenditure of up to 50 percent of the interest earned from investments of the Florida Coastal Protection Trust Fund when the balance is greater than ~~\$25 million~~ \$30 million, to the Water Quality Assurance Trust Fund created pursuant to s. 376.307; however, this expenditure shall be reduced by any administrative expenses, personnel expenses, and equipment costs of the department related to the enforcement of ss. 376.011-376.21.

~~(h) The service charge imposed pursuant to chapter 215.~~

(h)(i) The funding of a grant program to coastal local governments, pursuant to s. 376.15(2)(b) and (c), for the removal of derelict vessels from the public waters of the state.

Section 9. Section 376.22, Florida Statutes, is created to read:

376.22 Port Trust Fund.—

(1) There is hereby established the Port Trust Fund to be administered by the Department of Natural Resources and used for requirements imposed by the department as a condition of a permit or other form of approval, environmental mitigation required as a condition of a state, federal, or local environmental permit, and for the acquisition of spoil disposal sites and improvements to existing and future spoil sites, for the ports of Jacksonville, Port Canaveral, Ft. Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, Tampa, St. Petersburg Bayboro Harbor, Port St. Joe, Panama City, Pensacola, and other governmental entities which have deep-water commercial navigation as their primary purpose. On July 1, 1986, the balance of the moneys which accrued to the Florida Coastal Protection Trust Fund for these purposes after June 30, 1980, shall be transferred to this fund.

(2) Moneys in the Port Trust Fund that are not needed currently to meet the obligations of this fund shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. Interest received on such investment shall be credited to the fund.

(3)(a) *The Department of Natural Resources shall establish a priority list of projects to be undertaken using moneys from the fund, after considering all recommendations received. In this program, the department shall, where applicable, take into consideration, but shall not limit its consideration to, the existing need of each port for spoil disposal sites, the frequency and volume of maintenance dredging at each port, the movement of petroleum and other pollutant hazards at each port, the protection of recreational and environmental quality, whether the proposed project meets the permit requirements of chapters 253 and 403, and whether the proposed project is required as a condition of a permit or other approval issued by the department, Department of Environmental Regulation, Federal Environmental Protection Agency, the U.S. Army Corps of Engineers, water management district, or local government.*

(b) *The recipient port authority or appropriate governmental entity shall contribute not less than 50 percent of the cost of a project. Such contribution may include land owned or related improvements made by a port. The department shall establish procedures for the payment of funds and matching contributions consistent with the provisions of this paragraph.*

(4)(a) *Any moneys received by a recipient port authority or appropriate governmental entity from the sale of dredged materials deposited on a spoil disposal site acquired or improved under this section, or from the sale of a spoil disposal site acquired under this section, shall be paid to the fund until the fund has been reimbursed for its participation in the acquisition or improvement of that site. After such reimbursement, any such moneys shall be paid to the contributing governmental entity until that entity has been reimbursed for its contribution, and thereafter all such moneys shall be paid to the fund.*

(b) *Any revenue received by a recipient port authority or appropriate governmental entity after the acquisition or improvement of a disposal site, except from the sale of spoil or for revenues pledged as a bonding obligation incurred prior to state participation in the project, shall be paid to the fund until the fund has been reimbursed, with interest, at the legal interest rate, for its participation in the acquisition or improvement of that site. Any revenue received from the sale of spoil shall be repaid in accordance with paragraph (a).*

Section 10. Section 376.30, Florida Statutes, is amended to read:

376.30 Legislative intent with respect to pollution of surface and ground waters.—

(1) The Legislature finds and declares:

(a) *That certain lands and waters of Florida constitute unique and delicately balanced resources;*

(b) *That the protection of these resources is vital to the economy of this state;*

(c) *That the preservation of surface and ground waters is a matter of the highest urgency and priority, as these waters provide the primary source for potable water in this state; and*

(d) *That such use can only be served effectively by maintaining the quality of inland waters in as close to a pristine condition as possible, taking into account multiple-use accommodations necessary to provide the broadest possible promotion of public and private interests.*

(2) The Legislature further finds and declares that:

(a) *The storage, transportation, and disposal of pollutants within the jurisdiction of the state and state inland waters is a hazardous undertaking;*

(b) *Spills, discharges, and escapes of pollutants that occur as a result of procedures taken by private and governmental entities involving the storage, transportation, and disposal of such products pose threats of great danger and damage to the environment of the state, to citizens of the state, and to other interests deriving livelihood from the state;*

(c) *Such hazards have occurred in the past, are occurring now, and present future threats of potentially catastrophic proportions, all of which are expressly declared to be inimical to the paramount interests of the state as set forth in this section; and*

(d) *Such state interests outweigh any economic burdens imposed by the Legislature upon those engaged in storing, transporting, or disposing of pollutants and related activities.*

(3) The Legislature intends by the enactment of ss. 376.30-376.319 376.30-376.315 to exercise the police power of the state by conferring upon the Department of Environmental Regulation the power to:

(a) Deal with the environmental and health hazards and threats of danger and damage posed by such storage, transportation, disposal, and related activities;

(b) Require the prompt containment and removal of products occasioned thereby; and

(c) Establish a program which will enable the department fund to:

1. Provide for expeditious restoration or replacement of potable water systems or potable private wells of affected persons where health hazards exist due to contamination from pollutants (which may include provision of bottled water on a temporary basis, after which a more stable and convenient source of potable water shall be provided), subject to the following conditions:

a. For purposes of this subparagraph, the term "restoration" means restoration of a contaminated potable water supply to a level which meets applicable water quality standards or applicable water quality criteria, as adopted by rule, for the contaminant or contaminants present in the water supply, or, where no such standards or criteria have been adopted, to a level which is determined to be a safe, potable level by the State Health Officer in the Department of Health and Rehabilitative Services, through the installation of a filtration system and provision of replacement filters as necessary, or through employment of repairs or another treatment method or methods designed to remove or filter out contamination from the water supply; and the term "replacement" means replacement of a well or well field or connection to an alternative source of safe, potable water.

b. For the purposes of the Inland Protection Trust Fund, such restoration or replacement shall take precedence over other uses of the unobligated moneys within the fund.

c. Funding for activities described in this subparagraph shall not exceed \$10 million for any one county for any one year, other than for the provision of bottled water.

d. Funding for activities described in this subparagraph shall not be available to fund any increase in the capacity of a potable water system or potable private well over the capacity which existed prior to such restoration or replacement, unless such increase is the result of the use of a more cost-effective alternative than other alternatives available.

2. Provide for the inspection and supervision of such activities described in this subsection; and

3. Guarantee the prompt payment of reasonable costs resulting therefrom, including those administrative costs incurred by the Department of Health and Rehabilitative Services in providing field and laboratory services, toxicological risk assessment, and other services to the department in the investigation of drinking water contamination complaints.

(4) The Legislature further finds and declares that the preservation of the quality of surface and ground waters is of prime public interest and concern to the state in promoting its general welfare, preventing disease, promoting health, and providing for the public safety and that the interest of the state in such preservation outweighs any burdens of liability imposed by the Legislature upon those persons engaged in storing pollutants and related activities.

(5) The Legislature further declares that it is the intent of ss. 376.30-376.319 376.30-376.315 to support and complement applicable provisions of the Federal Water Pollution Control Act, as amended, specifically those provisions relating to the national contingency plan for removal of pollutants.

Section 11. Section 376.301, Florida Statutes, is amended to read:

376.301 Definitions of terms used in ss. 376.30-376.319 376.30-376.317.—When used in ss. 376.30-376.319 376.30-376.317, unless the context clearly requires otherwise, the term:

(1) "Barrel" means 42 U.S. gallons at 60° Fahrenheit.

(2) "Department" means the Department of Environmental Regulation.

(3) "Discharge" includes, but is not limited to, any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any pollutant which occurs and which affects lands and the surface and ground waters of the state not regulated by ss. 376.011-376.21.

(4) "Facility" means a nonresidential location containing any stationary tank or tanks ~~which are not covered by ss. 376.011-376.21 and which contain pollutants and have individual storage capacities greater than 550 gallons. This definition shall not include facilities covered by ss. 376.011-376.21 or, except for any aboveground crude oil storage tank covered by chapter 377, or containers storing a nonresidential location which contains or stores solid or gaseous pollutants in containers having individual storage capacities greater than 550 gallons.~~

(5) ~~"Fund" means the Water Quality Assurance Trust Fund.~~

(5)(6) "Operator" means any person operating a facility, whether by lease, contract, or other form of agreement.

(6)(7) "Owner" means any person owning a facility.

(7)(8) "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity.

(8)(9) "Person in charge" means the person on the scene who is in direct, responsible charge of a facility from which pollutants are discharged, when the discharge occurs.

(9) "Petroleum" means:

(a) Oil, including crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary methods and which are not the result of condensation of gas after it leaves the reservoir; and

(b) All natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in paragraph (a).

(10) "Petroleum product" means any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils (IFO) used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks.

(11) "Petroleum storage system" means a stationary tank not covered under the provisions of chapter 377, together with any onsite integral piping or dispensing system associated therewith, which is used, or intended to be used, for the storage or supply of any petroleum product as defined herein, and which:

(a) Is registered with the Department of Environmental Regulation under this chapter or any rule promulgated pursuant hereto;

(b) Is located in a terminal facility registered with the Department of Natural Resources under this chapter or any rule promulgated pursuant hereto;

(c) Is located in a storage facility licensed with the Department of Revenue under s. 206.022 or s. 206.9930, excluding offsite pipelines;

(d) Is a system with respect to which notification has been submitted to the Department of Environmental Regulation under s. 376.303; or

(e) Is a system with respect to which notification has been submitted to the appropriate state agency under Subtitle I of the Resource Conservation and Recovery Act.

(12)(10) "Pollutants" includes any "product" as defined in s. 377.19(11), pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

(13)(11) "Pollution" means the presence on the land or in the waters of the state of pollutants in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

(14) "Response action" means any activity, including evaluation, planning, design, engineering, construction, and ancillary services,

which is carried out in response to any discharge, release, or threatened release of a hazardous substance, pollutant, or other contaminant from a facility or site identified by the department under the provisions of ss. 376.30-376.319.

(15) "Response action contractor" means a person who is carrying out any response action, including a person retained or hired by such person to provide services relating to a response action.

(16)(12) "Secretary" means the Secretary of the Department of Environmental Regulation.

Section 12. Section 376.303, Florida Statutes, is amended to read:

376.303 Powers and duties of the Department of Environmental Regulation.—

(1) The department has the power and the duty to:

(a)1. Establish rules, including, but not limited to, construction standards, permitting or registration of tanks, maintenance and installation standards, and removal or disposal standards, to implement the intent of ss. 376.30-376.319 ~~376.30-376.317~~ and to regulate underground and aboveground facilities and their onsite integral piping systems not covered by ss. 376.011-376.21 or, ~~except for aboveground crude oil storage tanks covered by chapter 377.~~ The department shall develop a compliance verification program for chapter 17-61, Florida Administrative Code, which shall be implemented upon termination of the Early Detection Incentive Program established under s. 376.3071(9), or October 1, 1987, whichever is earlier.

2. Undertake a notification program for those underground tanks which are excluded from the definition of "facility" as set forth in s. 376.301(4) solely by virtue of having a storage capacity of 550 gallons or less, in order that such tanks may be located. Pursuant thereto, the department shall develop postcard notification forms, which shall elicit the following information: The tank owner's name and current address; whether such person owns a storage tank or tanks which are totally or partially underground and which are being used, are intended to be used, or have been used for the storage or supply of any petroleum product; number of such tanks owned; number in active use; and general location of each such tank. Multiple copies of this form shall be mailed to every distributor and marketer of petroleum products in this state, who shall make such form available to his customers whenever such person has reason to believe the customer owns such a tank or tanks. In addition, the department shall make such forms available to interested persons upon request. Any person who completes and returns such form before October 1, 1987, may be eligible to participate in the Early Detection Incentive Program under s. 376.3071(9).

(b) For each tank registered with the department under chapter 17-61, Florida Administrative Code, issue either a registration sticker to be displayed in plain view upon the tank or upon the dispensing or measuring device connected thereto or, where appropriate, a registration certificate listing all registered tanks at a facility, to be displayed in plain view in the office or kiosk of the facility where the tanks are located, for which an initial registration fee in the amount of \$50 per tank and an annual renewal fee in the amount of \$25 per tank shall be imposed upon the tank owner, to be due and payable by July 1 of each year. The department shall notify each registrant of the annual renewal fee requirement no later than June 1 of each year. Any payment over 30 days past due shall be deemed delinquent, and the registrant shall be required to pay an additional \$20 late fee for each tank with respect to which payment is delinquent. Revenues derived from fees imposed upon tanks storing petroleum products as defined in s. 376.301(10) shall be deposited in the Inland Protection Trust Fund established under s. 376.3071; all other revenues derived from such fees shall be deposited in the Water Quality Assurance Trust Fund established under s. 376.307.

(c)(b) Provide for the development and implementation of criteria and plans to prevent and meet occurrences of pollution of various kinds and degrees.

(d)(e) Establish a requirement that any facility covered by this act be subject to complete and thorough inspections at reasonable times. Any facility which has discharged a pollutant in violation of the provisions of ss. 376.30-376.319 ~~376.30-376.317~~ shall be fully and carefully monitored by the department to ensure that such discharge does not continue to occur.

(e)(d) Keep an accurate record of the costs and expenses incurred for the removal of prohibited discharges and, *except as otherwise provided by law*, thereafter diligently to pursue the recovery of any sums so incurred from the person responsible or from the United States Government under any applicable federal act, *unless the department finds the amount involved too small or the likelihood of recovery too uncertain*.

(f)(e) Bring an action on behalf of the state to enforce the liabilities imposed by ss. 376.30-376.319 ~~376.30-376.317~~. The provisions of ss. 403.121, 403.131, 403.141, and 403.161 apply to enforcement under ss. 376.30-376.319 ~~376.30-376.317~~.

(2) The powers and duties of the department under ss. 376.30-376.319 ~~376.30-376.317~~ shall extend to the land mass of the state not described in ss. 376.011-376.21.

Section 13. Subsections (1) and (5) of section 376.305, Florida Statutes, are amended to read:

376.305 Removal of prohibited discharges.—

(1) Any person discharging a pollutant as prohibited by ss. 376.30-376.319 ~~376.30-376.315~~ shall immediately undertake to contain, remove, and abate the discharge to the satisfaction of the department. *However, such an undertaking to contain, remove, or abate a discharge shall not be deemed an admission of responsibility for the discharge by the person taking such action.* Notwithstanding this requirement, the department may undertake the removal of the discharge and may contract and retain agents who shall operate under the direction of the department.

(5) Nothing in ss. 376.30-376.319 ~~376.30-376.315~~ shall affect the right of any person to render assistance in containing or removing any pollutant or any rights which that person may have against any third party whose acts or omissions in any way have caused or contributed to the discharge of the pollutant.

Section 14. Subsections (2), (3), (4), (6), (7), and (8) of section 376.307, Florida Statutes, are amended to read:

376.307 Water Quality Assurance Trust Fund.—

(2) The *Water Quality Assurance Trust Fund* may be used to carry out the provisions of ss. 376.30-376.319, *other than the provisions of ss. 376.3071 and 376.3073, this act* and for the *expeditious restoration or replacement of potable water supplies as provided in s. 376.30(3)(c)1., and for the investigation, assessment, cleanup, and restoration, maintenance, and monitoring of any site contaminated with:*

(a) Hazardous wastes;

(b) "Hazardous substances" as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767; or

(c) *Except as otherwise provided for in ss. 376.3071 and 376.3073:*

1. A pollutant;

2.(d) A substance which is or is suspected to be carcinogenic, mutagenic, teratogenic, or toxic to human beings, or acutely toxic to indigenous species of significance to the biological community affected by the hazardous waste or substance; or

3.(e) A substance which poses a serious danger to the public health, safety, or welfare.

(3) The trust fund shall be funded as follows:

(a)—~~A one-time transfer of \$11 million from the Florida Coastal Protection Trust Fund pursuant to s. 376.11(6)(f). This transfer shall not be subject to the General Revenue Fund deduction authorized in ss. 215.20 and 215.22.~~

(a)(b) An annual transfer of interest funds from the Florida Coastal Protection Trust Fund pursuant to s. 376.11(5)(g).

(b)(e) A monthly transfer of the interest from the State Water Pollution Control Trust Fund.

(c) *All excise taxes levied, collected, and credited to the Water Quality Assurance Trust Fund in accordance with the provisions of ss. 206.9935(2) and 206.9945(1)(b).*

(d) *All penalties, judgments, recoveries, reimbursements, and other fees and charges credited to the Water Quality Assurance Trust Fund in accordance with the provisions of subsection (4).*

(4)(a) The trust fund shall be used by the department as a nonlapsing revolving fund for carrying out the purposes of ss. 376.30-376.319, *other than those purposes for which funds in the Inland Protection Trust Fund may be used as provided in ss. 376.3071 and 376.3073 this act.* To this fund shall be credited all *excise tax revenues levied, collected, and credited pursuant to ss. 206.9935(2) and 206.9945(1)(b) and all excise taxes, penalties, judgments, and other fees and charges related to the implementation of ss. 376.30-376.319, other than those penalties, judgments, and other fees and charges related to the implementation of ss. 376.3071 and 376.3073 376.30-376.315.* Charges against the Water Quality Assurance Trust Fund shall be in accordance with this section.

(b) *The department shall disburse moneys in the Water Quality Assurance Trust Fund for activities as authorized under subsection (2) according to the following priority order:*

1. *Emergency actions necessary to protect the public health, safety, and welfare.*

2. *Previous obligations.*

3. *Restoration or replacement of contaminated private potable wells or water systems.*

4. *Response actions carried out pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).*

5. *Other response actions carried out or authorized by the department.*

6. *Other authorized activities, except that, upon a determination by the secretary that sufficient unobligated funds are not available in the trust fund to adequately fund any activity or activities under this subparagraph, the secretary may elect to disburse available moneys to partially fund such activity or activities, or to withhold funding for such activity or activities.*

(5)(6) *Except as otherwise provided by law, the department shall recover to the use of the fund from a person or persons at any time causing or having caused the discharge or from the Federal Government, jointly and severally, all sums owed or expended from the fund, pursuant to s. 376.308(4), except that the department may decline to pursue such recovery if it finds the amount involved too small or the likelihood of recovery too uncertain.* Sums recovered as a result of damage due to a discharge of a pollutant or other similar disaster shall be apportioned between the fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Any request for reimbursement to the fund for such costs, if not paid within 30 days of demand, shall be turned over to the department for collection.

(6)(7) Moneys in the fund which are not needed currently to meet the obligations of the department in the exercise of its responsibilities under ss. 376.30-376.319 ~~376.30-376.315~~ shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. The interest received on such investment shall be credited to the fund. *Any provisions of law to the contrary notwithstanding, such interest may be freely transferred between this trust fund and the Inland Protection Trust Fund, in the discretion of the department.*

(7)(8) *Except as otherwise provided by law, it is the duty of the department in administering the fund diligently to pursue the reimbursement to the fund of any sum expended from the fund for cleanup and abatement in accordance with the provisions of this section, unless the department finds the amount involved too small or the likelihood of recovery too uncertain.* For the purposes of s. 95.11, the limitation period within which to institute an action to recover such sums shall commence on the last date on which any such sums were expended, and not the date that the discharge occurred.

Section 15. Section 376.3071, Florida Statutes, is created to read:

376.3071 Inland Protection Trust Fund.—

(1) *FINDINGS.—In addition to the legislative findings set forth in s. 376.30, the Legislature finds and declares:*

(a) That significant quantities of petroleum and petroleum products are being stored in underground storage systems in this state, which storage is a hazardous undertaking;

(b) That spills, leaks, and other discharges from such storage systems have occurred, are occurring, and will continue to occur, and such discharges pose a significant threat to the quality of the groundwaters and inland surface waters of this state;

(c) That, where contamination of the ground or surface water has occurred, remedial measures have often been delayed for long periods while determinations as to liability and the extent of liability are made;

(d) That such delays result in the continuation and intensification of the threat to the public health, safety, and welfare, in greater damage to the environment, and in significantly higher costs to contain and remove the contamination; and

(e) That adequate financial resources must be readily available to provide for the expeditious supply of safe and reliable alternative sources of potable water to affected persons and to provide a means for investigation and cleanup of contamination sites without delay.

(2) **INTENT AND PURPOSE.**—It is the intent of the Legislature to establish the Inland Protection Trust Fund to serve as a repository for funds which will enable the department to respond without delay to incidents of inland contamination related to the storage of petroleum and petroleum products in order to protect the public health, safety, and welfare and minimize environmental damage.

(3) **CREATION.**—There is hereby created the Inland Protection Trust Fund, hereinafter referred to as the "fund," to be administered by the department. This fund shall be used by the department as a nonlapsing revolving fund for carrying out the purposes of this section and s. 376.3073. To this fund shall be credited all penalties, judgments, recoveries, reimbursements, loans, and other fees and charges related to the implementation of ss. 376.3071 and 376.3073 and the excise tax revenues levied, collected, and credited pursuant to ss. 206.9935(3) and 206.9945(1)(c). Charges against the fund shall be made in accordance with the provisions of this section.

(4) **USES.**—Whenever, in its determination, incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or the public health, safety, or welfare, the department shall obligate moneys available in the fund to provide for:

(a) Prompt investigation and assessment of contamination sites;

(b) Expeditious restoration or replacement of potable water supplies as provided in s. 376.30(3)(c)1.;

(c) Rehabilitation of contamination sites, which shall consist of cleanup of affected soil, groundwater, and inland surface waters, using the most cost-effective alternative that is technologically feasible and reliable and that provides adequate protection of the public health, safety, and welfare and minimizes environmental damage, in accordance with the site selection and cleanup criteria established by the department under subsection (5), except that nothing herein shall be construed to authorize the department to obligate funds for payment of costs which may be associated with, but are not integral to, site rehabilitation, such as the cost for retrofitting or replacing petroleum storage systems;

(d) Maintenance and monitoring of contamination sites;

(e) Inspection and supervision of activities described in this subsection;

(f) Payment of expenses incurred by the department in its efforts to obtain from responsible parties the payment or recovery of reasonable costs resulting from the activities described in this subsection; and

(g) Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health and Rehabilitative Services in providing field and laboratory services, toxicological risk assessment, and other assistance to the department in the investigation of drinking water contamination complaints.

(5) **SITE SELECTION AND CLEANUP CRITERIA.**—

(a) The department shall establish criteria by rule for the purpose of prioritizing contamination sites based upon factors that include, but need not be limited to:

1. The degree to which human health, safety, or welfare may be affected by exposure to the contamination;

2. The size of the population or area affected by the contamination;

3. The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water; and

4. The effect of the contamination on the environment.

Moneys in the fund shall then be obligated for activities described in paragraphs (4)(a)-(e) at individual sites in accordance with such established criteria. However, nothing in this paragraph shall be construed to restrict the department from modifying the priority status of a rehabilitation site where conditions warrant.

(b) The secretary shall establish criteria by rule for the purpose of determining, on a case-by-case basis, the level at which a site rehabilitation program may be deemed completed, whether such rehabilitation program is performed by the department or by a person through his own personnel or through responsible response action contractors or subcontractors. Such criteria shall be based upon the factors set forth in paragraph (a) and the following additional factors:

1. Individual site characteristics, including natural rehabilitation processes.

2. Applicable state water quality standards.

3. Whether deviation from state water quality standards or from established criteria is appropriate, based upon the degree to which the desired cleanup level is achievable and can be reasonably and cost-effectively implemented within available technologies or control strategies, except that, where a state water quality standard is applicable, such deviation may not result in the application of standards more stringent than said standard.

However, nothing in this paragraph shall be construed to restrict the department from temporarily postponing completion of any site rehabilitation program for which funds are being expended whenever such postponement is deemed necessary in order to make funds available for rehabilitation of a contamination site with a higher priority status.

(6) **FUNDING.**—The Inland Protection Trust Fund shall be funded as follows:

(a) All excise taxes levied, collected, and credited to the fund in accordance with the provisions of ss. 206.9935(3) and 206.9945(1)(c).

(b) All penalties, judgments, recoveries, reimbursements, and other fees and charges credited to the fund in accordance with the provisions of subsection (3).

(c) A loan of \$5 million from the Florida Coastal Protection Trust Fund pursuant to s. 376.11(5)(f). This loan shall not be subject to the General Revenue deduction authorized in ss. 215.20 and 215.22.

(7) **DEPARTMENTAL DUTY TO SEEK RECOVERY AND REIMBURSEMENT.**—

(a) Except as provided in subsection (9) and as otherwise provided by law, the department shall recover to the use of the fund from a person or persons at any time causing or having caused the discharge or from the Federal Government, jointly and severally, all sums owed or expended from the fund, pursuant to s. 376.308, except that the department may decline to pursue such recovery if it finds the amount involved too small or the likelihood of recovery too uncertain. Sums recovered as a result of damage due to a discharge related to the storage of petroleum or petroleum products or other similar disaster shall be apportioned between the fund and the General Revenue Fund so as to repay the full costs to the General Revenue Fund of any sums disbursed therefrom as a result of such disaster. Any request for reimbursement to the fund for such costs, if not paid within 30 days of demand, shall be turned over to the department for collection.

(b) Except as provided in subsection (9) and as otherwise provided by law, it is the duty of the department in administering the fund dili-

gently to pursue the reimbursement to the fund of any sum expended from the fund for cleanup and abatement in accordance with the provisions of this section or s. 376.3073, unless the department finds the amount involved too small or the likelihood of recovery too uncertain. For the purposes of s. 95.11, the limitation period within which to institute an action to recover such sums shall commence on the last date on which any such sums were expended, and not the date that the discharge occurred.

(8) **INVESTMENTS; INTEREST.**—Moneys in the fund which are not needed currently to meet the obligations of the department in the exercise of its responsibilities under ss. 376.3071 and 376.3073 shall be deposited with the Treasurer to the credit of the fund and may be invested in such manner as is provided for by statute. The interest received on such investment shall be credited to the fund. Any provisions of law to the contrary notwithstanding, such interest may be freely transferred between this trust fund and the Water Quality Assurance Trust Fund, in the discretion of the department.

(9) **EARLY DETECTION INCENTIVE PROGRAM.**—To encourage early detection, reporting, and cleanup of contamination from leaking petroleum storage systems, the department shall, within the guidelines established in this subsection, conduct an incentive program which shall provide for a 15-month grace period beginning on July 1, 1986, and ending on October 1, 1987. Pursuant thereto:

(a) The department shall establish reasonable requirements for the written reporting of petroleum contamination incidents and shall distribute forms to registrants under s. 376.303(1)(b), and to other interested parties upon request, to be used for such purpose. Until such forms are available for distribution, the department shall take reports of such incidents, however made, but shall notify any person making such a report that a complete written report of the incident will be required by the department at a later time, the form for which will be provided by the department.

(b) When reporting forms become available for distribution, all sites involving incidents of contamination from petroleum storage systems initially reported to the department at any time from midnight on June 30, 1986, to midnight on September 30, 1987, shall be qualified sites, provided that such a complete written report is filed with respect thereto within a reasonable time. Subject to the delays which may occur as a result of the prioritization of sites under paragraph (5)(a), for any qualified site, costs for activities described in paragraphs (4)(a)-(e) shall be absorbed at the expense of the fund, without recourse to reimbursement or recovery, with the following exceptions:

1. The provisions of this subsection shall not apply to any site where the department has been denied site access to implement the provisions of this section.

2. The provisions of this subsection shall not be construed to authorize or require reimbursement from the fund for costs expended prior to the beginning of the grace period, except as provided in subsection (12).

3. Upon discovery by the department that the owner or operator of a petroleum storage system has been grossly negligent in the maintenance of such petroleum storage system, has, with willful intent to conceal the existence of a serious discharge, falsified inventory or reconciliation records maintained with respect to the site at which such system is located, or has intentionally damaged such petroleum storage system, the site at which such system is located shall be ineligible for participation in the incentive program and the owner shall be liable for all costs due to discharges from petroleum storage systems at that site, any other provisions of this act to the contrary notwithstanding. For purposes of this paragraph, willful failure to maintain inventory and reconciliation records, willful failure to make monthly monitoring system checks where such systems are in place, and failure to meet monitoring and retrofitting requirements within the schedules established under chapter 17-61, Florida Administrative Code, or violation of similar rules adopted by the Department of Natural Resources under this chapter, shall be construed to be gross negligence in the maintenance of a petroleum storage system.

If, in order to avoid prolonged delay, the department in its discretion deems it necessary to expend sums from the fund to cover ineligible sites or costs as set forth in this paragraph, the department may do so and seek recovery and reimbursement therefor in the same manner and in accordance with the same procedures as are established for recovery and reimbursement of sums otherwise owed to or expended from the fund.

4. The provisions of this subsection shall not apply to petroleum storage systems owned or operated by the Federal Government.

(c) No report of a discharge made to the department by any person in accordance with this subsection, or any rules promulgated pursuant hereto, shall be used directly as evidence of liability for such discharge in any civil or criminal trial arising out of the discharge.

(10) **PENALTY.**—It is unlawful for any person to:

(a) Falsify inventory or reconciliation records maintained in compliance with chapter 17-61, Florida Administrative Code, with willful intent to conceal the existence of a serious leak; or

(b) Intentionally damage a petroleum storage system.

Any person convicted of such a violation shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(11) **VOLUNTARY CLEANUP.**—Nothing in this act shall be deemed to prohibit a person from conducting site rehabilitation either through his own personnel or through responsible response action contractors or subcontractors.

(12) **REIMBURSEMENT FOR CLEANUP EXPENSES.**—

(a) **Legislative findings.**—The Legislature finds and declares that, in order to provide for rehabilitation of as many contamination sites as possible, as soon as possible, voluntary rehabilitation of contamination sites should be encouraged, provided that such rehabilitation is conducted in a manner and to a level of completion which will protect the public health, safety, and welfare and will minimize damage to the environment.

(b) **Entitlement; conditions.**—To accomplish this purpose, for sites initially reported on or prior to September 30, 1987, any person conducting site rehabilitation under this subsection, either through his own personnel or through responsible response action contractors or subcontractors, shall be entitled to reimbursement from the fund at reasonable rates for allowable costs incurred on or after January 1, 1985, in connection with such site rehabilitation, subject to the following conditions:

1. Nothing in this subsection shall be construed to authorize reimbursement of any person or for any site excluded from participation in the Early Detection Incentive Program under subparagraph 1., subparagraph 3., or subparagraph 4. of paragraph (9)(b).

2. The provisions of this subsection shall not apply to any site initially reported prior to July 1, 1986, where the department has initiated an administrative or civil enforcement action with respect to such site, unless the responsible party has, prior to July 1, 1986, undertaken, and made a reasonable effort to carry out, one or more of the following remedial actions at the site:

- a. Product recovery;
- b. Groundwater restoration; or
- c. Soil removal.

3. Reimbursement under this subsection shall not be considered a state contract and shall not be subject to the provisions of chapter 287.

4. Site rehabilitation shall be completed in accordance with cleanup criteria established by the department pursuant to paragraph (5)(b).

5. Procedural requirements of this subsection shall have been met.

(c) **Procedure to initiate and conduct site rehabilitation.**—

1. Any person initiating site rehabilitation between July 1, 1986, and September 30, 1987, who intends to file for reimbursement shall submit written notice of such intent to the department within 30 days of initiating site rehabilitation, together with documentation of site conditions prior to initiation of cleanup.

2. Any person who initiated site rehabilitation on or prior to June 30, 1986, who intends to file for reimbursement shall submit written notice of such intent to the department within 30 days of the effective date of this act, together with documentation of site conditions prior to initiation of cleanup.

Within 60 days after receipt of such notice and sufficient documentation of site conditions prior to initiation of cleanup, the department shall determine whether the person is ineligible to apply for reimbursement under subparagraph (b)1. or subparagraph (b)2., and shall notify the applicant as to his eligibility in writing.

(d) *Records.*—The person responsible for conducting site rehabilitation, or his agent, shall keep and preserve suitable records of hydrological and other site investigations and assessments, site rehabilitation plans, contracts and contract negotiations, and accounts, invoices, sales tickets, or other payment records from purchases, sales, leases, or other transactions involving costs actually incurred related to site rehabilitation. Such records shall be made available upon request to agents and employees of the department during regular business hours, and at other times upon written request of the department. In addition, the department may from time to time request submission of such site-specific information as it may require. All records of costs actually incurred for cleanup shall be certified by affidavit to the department as being true and correct.

(e) *Application for reimbursement.*—Upon determining that cleanup is complete, the person responsible for conducting site rehabilitation shall submit to the department, on forms provided thereby, an application for reimbursement, together with evidence documenting that site rehabilitation was completed in accordance with cleanup criteria established by the department pursuant to paragraph (5)(b) and such records and other relevant information as the department may require.

(f) *Review.*—

1. The department shall have 60 days to determine if the applicant has provided sufficient information for processing the application, and shall request submission of any additional information that the department may require within such 60-day period.

2. The department shall deny or approve the application for reimbursement within 90 days after receipt of the last item of timely requested additional material, or, if no additional material is requested, within 90 days of the close of the 60-day period described in subparagraph 1., unless the total review period is otherwise extended by written mutual agreement of the applicant and the department.

3. Final disposition of an application shall be provided to the applicant in writing, accompanied by a written explanation setting forth in detail the reason or reasons for the approval or denial. If the department fails to make a determination on an application within the time provided in subparagraph 2., or denies an application, or if a dispute otherwise arises with regard to reimbursement, the applicant may request a hearing pursuant to s. 120.57.

(g) *Schedule for reimbursement.*—

1. Except as otherwise provided in subparagraph 2., upon approval of an application for reimbursement, reimbursement for reasonable expenditures documented therein shall be due and payable within 90 days following the date on which the site in question would have become eligible for funding under the department's priority system established pursuant to paragraph (5)(a) had no cleanup taken place, based upon sufficient documentation of site conditions prior to initiation of site rehabilitation. However, no reimbursement shall be paid under this subsection until the department's funding obligations for higher priority sites have been met for the year in which reimbursement is due and payable.

2. With respect to those sites initially reported on or prior to June 30, 1986, such sites shall be grouped and prioritized separately and no reimbursement shall be paid under this subsection until the department's funding obligations for sites reported during the incentive period have been met.

(h) *Liberal construction.*—With respect to site rehabilitation initiated prior to July 1, 1986, the provisions of this subsection shall be given such liberal construction by the department as will accomplish the purposes set forth in this subsection. With regard to the keeping of particular records or the giving of certain notice, the department may accept as compliance action by a person which meets the intent of the requirements set forth in this subsection.

(13) **FINANCIAL AND TECHNICAL ADVISORY COMMITTEE.**—

(a) *Creation; duties.*—There is created the Financial and Technical Advisory Committee, hereinafter referred to as the "committee," to review, at its discretion or upon request of the secretary, site rehabilitation projects or water restoration or replacement projects which the department, a local government, or any other person undertakes pursuant to the provisions of this section for the purpose of providing the department with constructive comments relating to technical and accounting procedures which may be employed and for the purpose of keeping the department abreast of the latest available technologies and potential improvements in management and cost control practices. In addition, the committee shall advise the department, any local government undertaking a project under contract with the department pursuant to s. 376.3073, or any other person undertaking site rehabilitation under subsection (12) with respect to any site rehabilitation project or water restoration or replacement project which the department, local government, or other person, as appropriate, reasonably anticipates will involve expenditures or actions which may obligate the fund in excess of \$500,000 for that one project, exclusive of related investigation and assessment costs.

(b) *Membership.*—The committee shall be composed of nine persons to be appointed by the Governor, as follows:

1. One hydrologist;
2. One hydrogeologist;
3. One toxicologist;
4. One community water supply expert;
5. One response action contractor;
6. One certified public accountant;
7. One person representing petroleum refiners;
8. One person representing petroleum marketers; and
9. One person representing the public's environmental interests.

No person who is a public official or public employee, other than a member of the teaching or research faculty or other person holding an administrative or professional position within the State University System, shall be eligible for appointment under this paragraph.

(c) *Organization and terms; expenses; meetings.*—

1. All members of the committee shall serve for 2-year terms, except that, in order to achieve staggered terms, two of the members appointed under subparagraphs (b)1-5. and two of the members appointed under subparagraphs (b)6-9. shall be initially appointed for 1-year terms.

2. Vacancies shall be filled for the remainder of the unexpired term by appointment in the same manner as provided for original appointments.

3. The Governor shall designate one member of the committee to serve as chairman.

4. Members of the committee shall serve without compensation, but shall be entitled to travel and per diem expenses pursuant to s. 112.061.

5. The committee shall meet on a regular basis, at the call of the chairman.

(d) *Departmental support.*—The department shall supply such information, assistance, and facilities as are deemed necessary for the committee to carry out its duties under this subsection, and shall provide two staff members for the performance of required clerical and administrative functions of the committee. Departmental costs to comply with the provisions of this paragraph shall be considered administrative costs to be paid by the fund, except that no more than \$75,000 per year may be charged to the fund to cover these costs.

(e) *Review of certain projects required.*—

1. Whenever the department, a local government acting pursuant to a contract with the department under s. 376.3073, or other person undertaking a site rehabilitation under subsection (12), after conducting an investigation and assessment, has a reasonable expectation that a site rehabilitation project or water restoration or replacement project undertaken thereby will involve expenditures or actions which may require obligation of funds in excess of \$500,000, exclusive of investiga-

tion and assessment costs, the department, local government, or other person shall submit to the committee a request for review of the project, together with documentation of past and proposed expenditures and a proposed plan of action relative to such project, other than documentation of expenditures relating to investigation and assessment. Copies of such request, together with all associated documentation, shall be transmitted forthwith to every member of the committee.

2. Within a reasonable time after receipt of a request for review, the committee shall meet at the call of the chairman for the purpose of reviewing the project. Such review shall address, but need not be limited to, the financial and technical feasibility of the proposed plan of action and its anticipated costs, and whether other, more cost-effective alternatives are available which would protect the public health, safety, and welfare and minimize damage to the environment.

3. The committee shall report its findings and recommendations to the secretary, and to the local government in the case of a project undertaken pursuant to a contract with the department under s. 376.3073 or to the other person conducting a site rehabilitation project pursuant to subsection (12), which findings and recommendations shall be constructive in nature and shall be limited to the financial and technical feasibility of the proposed plan and its anticipated costs and whether other, more cost-effective alternatives are available which would protect the public health, safety, and welfare and minimize damage to the environment. Such findings and recommendations shall be advisory only and shall not be binding upon any party.

(f) *Subsequent review.*—With respect to any project which was previously reported to and reviewed by the committee as provided in paragraph (e), whenever it appears that costs, exclusive of investigation and assessment costs, for such project will exceed 150 percent of the costs originally anticipated and reported to the committee, or that a significant change in the plan of action for such project is called for, the department, local government, or other person, as appropriate, shall report the proposed additional expenditures or proposed change to the committee, and the committee may, in its discretion, review same as provided in subparagraphs (e)2. and 3.

(g) *Construction.*—Nothing in this subsection shall be construed to restrict the department, a local government acting pursuant to a contract with the department under s. 376.3073, or other person undertaking site rehabilitation pursuant to subsection (12) from making expenditures or taking those actions deemed necessary to protect the public health, safety, or welfare or to minimize damage to the environment. The department or local government may submit to the committee for its review documentation regarding such expenditures or actions after the fact.

Section 16. Subsection (13) of section 376.3071, Florida Statutes, as created herein, is repealed on October 1, 1996, and the Financial and Technical Advisory Committee shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.

Section 17. Section 376.3073, Florida Statutes, is created to read:

376.3073 *Local programs.*—

(1) The department shall, to the greatest extent possible, contract with local governments to provide for the administration of its departmental responsibilities under s. 376.3071(4)(a)-(e) through locally administered programs. However, no such contract shall be entered into unless the local government is deemed capable of carrying out such responsibilities to the department's satisfaction.

(2) To this end, the department shall inform local governments as to the provisions of this act and as to their options hereunder. At its own option, any local government may apply to the department for such purpose, on forms to be provided by the department, and shall supply such information as the department may require.

(3) Upon approval of its application, an eligible local government shall be entitled, through written contract with the department, to receive sufficient funds to administer the local program. This contract shall provide that reasonable costs, as determined by the department and the local government, of administration, investigation, rehabilitation, and other related activities, including the restoration or replacement of potable water supplies of affected persons, shall be paid to the eligible local government from the Inland Protection Trust Fund created under s. 376.3071, and shall stipulate the method of payment.

(4) Under no circumstances shall the cleanup criteria employed in locally administered programs be more stringent than the criteria established by the department pursuant to s. 376.3071(5)(b).

(5) Whenever the department makes a clear determination that a local government has breached a contract to the extent that the local program is, in the department's estimation, inadequate to prevent or control inland petroleum contamination in such jurisdiction, or that such program is being carried out in a manner inconsistent with the requirements of the contract, the department shall require that necessary corrective measures be taken by the local government within a reasonable period of time, not to exceed 45 days.

(6) If the local government fails to take such necessary corrective action within the time required, the department may reassume any or all responsibilities undertaken by the local government pursuant to this section.

Section 18. Section 376.308, Florida Statutes, is amended to read:

376.308 *Liabilities and defenses of facilities.*—In any suit instituted by the department under ss. 376.30-376.319 ~~376.30-376.315~~, it is not necessary for the department to plead or prove negligence in any form or manner. The department need only plead and prove that the prohibited discharge or other polluting condition has occurred. The only defenses of a person alleged to be responsible for the discharge to any action under ss. 376.30-376.319 ~~376.30-376.315~~ are to plead and prove that the occurrence was solely the result of any of the following or any combination of the following:

(1) An act of war.

(2) An act of government, either state, federal, or municipal.

(3) An act of God, which means only an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

(4) An act or omission of a third party, other than an employee or agent of the defendant or other than one whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the defendant, except when the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, if the defendant establishes by a preponderance of the evidence that:

(a) The defendant exercised due care with respect to the pollutant concerned, taking into consideration the characteristics of such ~~pollutant~~ ~~hazardous waste~~, in light of all relevant facts and circumstances; and

(b) The defendant took precautions against foreseeable acts or omissions of any such third party and against the consequences that could foreseeably result from such acts or omissions.

Section 19. Section 376.309, Florida Statutes, is amended to read:

376.309 *Facilities, financial responsibility.*—

(1) Each owner ~~or operator~~ of a facility is required to establish and maintain evidence of financial responsibility. Such evidence of financial responsibility shall be the only evidence required by the department that such owner ~~or operator~~ has the ability to meet the liabilities which may be incurred under ss. 376.30-376.319 ~~376.30-376.315~~.

(2) Any claim brought pursuant to ss. 376.30-376.319 ~~376.30-376.315~~ may be brought directly against the bond, the insurer, or any other person providing a facility with evidence of financial responsibility.

(3) Each owner ~~or operator~~ of a facility subject to the provisions of ss. 376.30-376.319 ~~376.30-376.315~~ shall designate a person in the state as his legal agent for service of process under ss. 376.30-376.319 ~~376.30-376.315~~, and such designation shall be filed with the Department of State. In the absence of such designation, the Secretary of State shall be the designated agent for purposes of service of process under ss. 376.30-376.319 ~~376.30-376.315~~.

Section 20. Section 376.313, Florida Statutes, is amended to read:

376.313 *Nonexclusiveness of remedies and individual cause of action for damages* under ss. 376.30-376.319 ~~376.30-376.315~~.—

(1) The remedies in ss. 376.30-376.319 ~~376.30-376.315~~ shall be deemed to be cumulative and not exclusive.

(2) Nothing in ss. 376.30-376.319 ~~376.30-376.315~~ requires the pursuit of any claim against the *Water Quality Assurance Trust Fund* or the *Inland Protection Trust Fund* as a condition precedent to any other remedy.

(3) Notwithstanding any other provision of law, nothing contained in ss. 376.30-376.319 ~~376.30-376.315~~ prohibits any person from bringing a cause of action in a court of competent jurisdiction for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.319 ~~376.30-376.315~~. Except as otherwise provided in subsection (4), in any such suit, it is not necessary for such person to plead or prove negligence in any form or manner. Such person need only plead and prove the fact of the prohibited discharge or other pollutive condition and that it has occurred. The only defenses to such cause of action shall be those specified in s. 376.308. ~~In addition to any other remedy, the injured party is entitled to recover the costs of the action and reasonable attorneys' fees.~~

(4) In any civil action brought after July 1, 1986, against the owner or operator of a petroleum storage system for damages arising from a petroleum storage system discharge, the provisions of subsection (3) shall not apply if it can be proven that, at the time of the discharge:

(a) The alleged damages resulted solely from a discharge from a petroleum storage system which was installed, replaced, or retrofitted, and maintained, in a manner consistent with the construction, operation, repair, and maintenance standards established for such systems under chapter 17-61, Florida Administrative Code, as that chapter may hereafter be amended. The requirement of consistency with such standards may be satisfied only by being in compliance with the standards at the time of the discharge, regardless of the time specified for compliance under the schedule provided in said chapter.

(b) A leak detection system or systems or a monitoring well or wells were installed and operating in a manner consistent with technical requirements of chapter 17-61, Florida Administrative Code, as that chapter may hereafter be amended; and

(c) All inventory, recordkeeping, and reporting requirements of chapter 17-61, Florida Administrative Code, as that chapter may hereafter be amended, have been and are being complied with.

Any person bringing such an action must prove negligence to recover damages under this subsection. For the purposes of this subsection, non-compliance with this act, or any of the rules promulgated pursuant hereto, as the same may hereafter be amended, shall be *prima facie* evidence of negligence.

(5) The court, in issuing any final judgment in any such action, may award costs of litigation (including reasonable attorney's and expert witness fees) to any party, whenever the court determines such an award is in the public interest.

Section 21. Subsection (4) of section 376.313, Florida Statutes, is hereby repealed on October 1, 1998, and said subsection shall be reviewed by the Legislature during the 1998 regular legislative session.

Section 22. Section 376.315, Florida Statutes, is amended to read:

376.315 Construction of ss. 376.30-376.319 ~~376.30-376.315~~.—Sections 376.30-376.319 ~~376.30-376.315~~, being necessary for the general welfare and the public health and safety of the state and its inhabitants, shall be liberally construed to effect the purposes set forth under ss. 376.30-376.319 ~~376.30-376.315~~ and the Federal Water Pollution Control Act, as amended.

Section 23. Subsection (1) of section 376.317, Florida Statutes, is amended to read:

376.317 Superseded laws; state preemption.—

(1) If any provision of ss. 376.30-376.319 ~~376.30-376.317~~ or of the rules developed pursuant to such sections, which provision pertains to a facility maintained for the purpose of the underground storage of petroleum products for use as fuel in vehicles, including, but not limited to, those vehicles used on and off roads, aircraft, watercraft, and rail, is in conflict with any other provision, limitation, or restriction which is now in effect under any law of this state or any ordinance of a local government, political subdivision, or municipality, or any rule or regulation adopted thereunder, the provision of ss. 376.30-376.319 ~~376.30-376.317~~ shall control, except as provided in subsection (3).

Section 24. Section 376.319, Florida Statutes, is created to read:

376.319 Response action contractors; indemnification.—

(1) The department may agree to hold harmless and indemnify a response action contractor who has a written contract with the department, or who has a written contract with a local government which has contracted with the department to administer a program pursuant to this act, for any civil damages to third parties:

(a) That result from the acts or omissions of the response action contractor in carrying out a response action; and

(b) That are caused by a discharge or release of a hazardous substance, pollutant, or other contaminant from a site upon which the response action is being carried out.

(2) The department, in determining whether or not to enter into hold harmless and indemnification agreements, shall consider:

(a) The availability of cost-effective insurance;

(b) The immediate need for the response action;

(c) The availability of qualified response action contractors; and

(d) Restricting the applicability of such agreements to exclude gross negligence or intentional conduct.

(3) Any payment or cost, including the cost of defending such actions, which is incurred as a result of an agreement by the department to hold harmless or indemnify shall be payable from the *Water Quality Assurance Trust Fund* or the *Inland Protection Trust Fund*, whichever is appropriate, based upon the nature of the discharge or release.

(4) No state employee or employee of a political subdivision who provides services relating to a response action while acting within the scope of his authority as a governmental employee shall be personally liable for any actions undertaken by the department, a political subdivision or a response action contractor pursuant to this act. However, nothing in this section shall affect the liability of any other person.

(5) This section is repealed effective October 1, 1988, and shall be reviewed by the Legislature during the 1988 regular legislative session.

Section 25. Subsection (1) and paragraph (b) of subsection (3) of section 403.091, Florida Statutes, are amended to read:

403.091 Inspections.—

(1) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules and regulations of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on or at which a hazardous waste generator, transporter, or facility or other air or water contaminant source; a discharger, including any nondomestic discharger which introduces any pollutant into a publicly owned treatment works; any facility, as defined in s. 376.301(4); or a resource recovery and management facility is located or is being constructed or installed or where records which are required under this chapter, ss. 376.30-376.319 ~~376.30-376.315~~, or department rules are kept. Any duly authorized representative may at reasonable times have access to and copy any records required under this chapter or ss. 376.30-376.319 ~~376.30-376.315~~; inspect any monitoring equipment or method; sample for any pollutants as defined in s. 376.301(12) ~~376.301(10)~~, effluents, or wastes which the owner or operator of such source may be discharging or which may otherwise be located on or underlying the owner's or operator's property; and obtain any other information necessary to determine compliance with permit conditions or other requirements of this chapter, ss. 376.30-376.319 ~~376.30-376.315~~, or department rules. No person shall refuse reasonable entry or access to any authorized representative of the department who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

(3)

(b) Upon proper affidavit being made, an inspection warrant may be issued under the provisions of this chapter or ss. 376.30-376.319 ~~376.30-376.315~~:

1. When it appears that the properties to be inspected may be connected with or contain evidence of the violation of any of the provisions of this chapter or ss. 376.30-376.319 ~~376.30-376.315~~ or any rule properly promulgated thereunder; or

2. When the inspection sought is an integral part of a larger scheme of systematic routine inspections which are necessary to, and consistent with, the continuing efforts of the department to ensure compliance with the provisions of this chapter or ss. 376.30-376.319 ~~376.30-376.315~~ and any rules adopted thereunder.

Section 26. Subsection (3) of section 403.1655, Florida Statutes, is amended to read:

403.1655 Environmental short-term emergency response program.—

(3) *Based upon the nature of the incident, the Water Quality Assurance Trust Fund or the Inland Protection Trust Fund, whichever is appropriate, shall be utilized to enable the department to respond during an emergency to incidents which threaten the environment or public health when otherwise responsible parties do not adequately respond.*

Section 27. Subsections (14), (15), and (16) are added to section 489.105, Florida Statutes, to read:

489.105 Definitions.—As used in this act:

(14) *"Pollutant storage systems specialty contractor" means a contractor who installs a pollutant storage tank.*

(15) *"Pollutant storage tank" means a tank, together with associated piping or dispensing facilities, which is or could be used for the storage or supply of pollutants as defined in s. 376.301 and which is required to be registered under chapter 17-61 of the Florida Administrative Code or for which notification must be submitted under Subtitle I of the Resource Conservation and Recovery Act.*

(16) *"Tank" means any container other than one which is above-ground and either elevated or situated upon an impermeable surface, or which is located in an accessible underground area and either elevated or situated upon an impermeable surface therein, in such manner that any leak in such container may be readily detected.*

Section 28. Subsections (7) and (8) of section 489.113, Florida Statutes, are renumbered as subsections (10) and (11), respectively, and new subsections (7), (8), and (9) are added to said section to read:

489.113 Qualifications for practice; restrictions.—

(7) *The board shall, by July 1, 1987, adopt rules providing standards for certification of pollutant storage systems specialty contractors. The Department of Environmental Regulation shall review and comment on such rules prior to adoption. The rules shall include, but not be limited to:*

(a) *Standards for operating as a pollutant storage systems specialty contractor.*

(b) *Requirements for certification as a pollutant storage systems specialty contractor.*

(c) *Requirements for certification without examination of pollutant storage systems specialty contractors for any person who has passed a local licensure examination, a licensure examination in another state, or a licensure examination of a national organization, which is at least as stringent as the examination adopted by the board.*

(d) *Requirements for certification without examination of pollutant storage systems specialty contractors for any certified mechanical contractor, any certified plumbing contractor, and any registered mechanical or plumbing contractor who has passed a local examination judged by the board to be at least as stringent as the equivalent state mechanical or plumbing contractor's examination, provided that such contractor has been certified prior to July 1, 1986, or has been registered and passed such local examination prior to July 1, 1986.*

The board may use standards and examinations of national organizations if such standards and examinations are adequate to ensure competent installation of pollutant storage tanks. All such standards and examinations shall be designed to ensure that leaks and other discharges are eliminated to the greatest extent possible.

(8)(a) *Any person who has operated as a pollutant storage systems specialty contractor during the 5 years preceding September 1, 1986, shall receive, within 30 days after written request, a temporary certificate permitting such person to continue operating without certification until July 1, 1989, if such person:*

1. *Notifies the department in writing that he intends to continue such operation and submits an application fee set by the board, not to exceed \$50; and*

2. *Provides a history of successful operation as a pollutant storage systems specialty contractor within such time period.*

(b) *A contractor seeking to be certified pursuant to paragraph (7)(d) shall receive, within 30 days after written request, a temporary certificate permitting such contractor to continue operating without certification until the board determines whether he qualifies for a certificate under paragraph (7)(d), provided that such contractor:*

1. *Notifies the department in writing that he intends to apply for certification under paragraph (7)(d); and*

2. *Provides the board sufficient information to determine that such contractor qualifies on the basis of certification or registration and the passage of an examination.*

The board may revoke or refuse to issue such temporary certificate for violation of s. 489.127 or s. 489.129.

(9)(a) *Effective October 1, 1986, notwithstanding any provision of this chapter to the contrary, no person shall engage in contracting as a pollutant storage systems specialty contractor unless such person is certified as a pollutant storage systems specialty contractor pursuant to this part, nor shall any official authorized to issue building or other related permits issue a permit or permits for the installation of a pollutant storage tank unless such official ascertains that the applicant for such permit or permits is certified as a pollutant storage systems specialty contractor.*

(b) *The Department of Environmental Regulation may inspect the installation of any pollutant storage tank. Any person installing a pollutant storage tank after July 1, 1987, shall certify that such installation is in accordance with the standards adopted pursuant to s. 376.303. The Department of Environmental Regulation shall promulgate a form for such certification which shall at a minimum include:*

1. *A signed statement by the certified pollutant storage systems specialty contractor that such installation is in accordance with standards adopted pursuant to s. 376.303; and*

2. *Signed statements by the onsite persons performing or supervising the installation of a pollutant storage tank which statements shall be required of tasks that are necessary for the proper installation of such tank.*

(c)1. *The Department of Environmental Regulation shall, to the greatest extent possible, contract with local governments to provide for the administration of its responsibilities under this subsection. Such contracts may allow for administration outside the jurisdictional boundaries of a local government. However, no such contract shall be entered into unless the local government is deemed capable of carrying out such responsibilities to the satisfaction of the Department of Environmental Regulation.*

2. *To this end, the Department of Environmental Regulation shall inform local governments as to the provisions of this section and as to their options hereunder. At its option, any local government may apply to the Department of Environmental Regulation for such purpose, on forms to be provided by the Department of Environmental Regulation, and shall supply such information as the Department of Environmental Regulation may require.*

(d) *The Department of Environmental Regulation may enjoin the installation or use of any pollutant storage tank that has been or is being installed in violation of this part.*

(e) *The Department of Environmental Regulation shall establish a pilot program providing for inspections of pollutant storage tanks in a county of less than 300,000 in population. The Department of Environmental Regulation shall adopt rules providing for such inspection program, which rules shall provide for an inspection prior to placing a pollutant storage tank in the excavation, an inspection after assembly but*

before connection to the tank, and an inspection prior to placing the pollutant storage tank in service. All such inspections shall be conducted pursuant to the standards adopted under s. 376.303. Inspection fees shall be set by rule and shall not exceed \$200 per pollutant storage tank, which fees shall fund the inspection program. The Department of Environmental Regulation may contract, pursuant to paragraph (c), with the county government to perform such inspections, in which case the county government shall receive the inspection fees to fund the program. The county government shall not require any additional inspections, except for electrical inspections, of a pollutant storage tank installed during the term of the pilot inspection program. Such program shall be established by July 1, 1987, and shall be continued for a period of 18 months. Within 3 months after the conclusion of this program, the Department of Environmental Regulation shall report to the Legislature on the results of the program.

Section 29. The Department of Professional Regulation shall, by September 1, 1986, notify all registered or certified mechanical or plumbing contractors by mail of the certification requirements for pollutant storage systems specialty contractors under s. 489.113.

Section 30. Subsection (3) is added to section 489.127, Florida Statutes, to read:

489.127 Prohibitions; penalties.—

(3) Any person who operates as a pollutant storage systems specialty contractor in violation of this part or any person who violates s. 489.113(9)(a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 31. Sections 489.105, 489.113, and 489.127, Florida Statutes, as amended by this act, are repealed on October 1, 1988, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 32. Subsection (30) is added to section 570.07, Florida Statutes, to read:

570.07 Department of Agriculture and Consumer Services; functions, powers, and duties.—The department shall have and exercise the following functions, powers, and duties:

(30) In conjunction with its inspection duties under chapters 487, 525, and 576, to notify the Department of Environmental Regulation as to any tank subject to the registration requirements of chapter 17-61, Florida Administrative Code, for which proof of valid registration is not displayed on the tank itself, on the dispensing or measuring device connected thereto, or, where appropriate, in the office or kiosk of the facility where the tanks are located.

Section 33. (1) There is hereby established within the Department of Health and Rehabilitative Services an authorized career service position (Environmental Specialist III) to assist the department and the county public health units in determining the toxicological and public health significance of incidents of drinking water contamination pursuant to ss. 376.30-376.319, Florida Statutes, and to assist with the gathering and interpretation of pertinent toxicological information.

(2) To fund such position for the first year (including salary, benefits, expenses, and operating capital outlay and allowing a 3-month lapse for hiring), there is hereby appropriated from the Inland Protection Trust Fund to the Department of Health and Rehabilitative Services the sum of \$31,781. For fiscal year 1987-1988 and each fiscal year thereafter, moneys existing in the Water Quality Assurance Trust Fund and the Inland Protection Trust Fund, as administered by the Department of Environmental Regulation, shall be utilized to fund this position on a recurring basis and shall be allocated to the Department of Health and Rehabilitative Services together with other sums allocated for that department's administrative expenses. The Department of Environmental Regulation may apportion such allocations between the two trust funds, as it deems appropriate.

Section 34. Paragraphs (c), (d), (e), (f), and (g) of subsection (4) of section 376.11, Florida Statutes, and paragraphs (c), (d), (e), (f), and (g) of subsection (5) of section 376.307, Florida Statutes, are hereby repealed.

Section 35. Nothing in this act shall authorize the Department of Environmental Regulation to require a permit for the application of pesticides.

Section 36. This act shall take effect July 1, 1986.

Amendment 4—On page 1 in the title, line 1, strike the title and insert: A bill to be entitled An act relating to water quality; creating the "State Underground Petroleum Environmental Response Act of 1986" for protection of the groundwaters and inland surface waters of the state; creating s. 206.485, F.S.; providing certain tracking system reporting requirements; creating part IV of chapter 206, F.S., and amending and transferring thereto portions of s. 376.11, F.S., and portions of s. 376.307, F.S., relating to excise taxes on pollutants; providing legislative intent and definitions; providing for administration; providing for registration of certain parties; providing a registration fee; providing a penalty for failure to register; providing for various taxes for environmental protection to be imposed upon first import or production of pollutants into this state; providing for suspension of the tax under certain circumstances; lowering the "cap" and "trigger" for the Coastal Protection Trust Fund; providing for expiration of the tax for underground petroleum response; providing for exemptions, refunds, and credits; providing for disposition of taxes collected; providing for a general revenue deduction prior to transfer of taxes to other trust funds; providing for personnel and expenses; providing for construction of the part; exempting the Department of Revenue from certain provisions of chapters 283 and 287, F.S.; amending s. 215.22, F.S., providing for a general revenue deduction for the Port Trust Fund as created herein; deleting duplicate deductions; amending s. 376.11, F.S.; providing that funds for spoil site acquisition and development which have accrued from interest on the Florida Coastal Protection Trust Fund shall be transferred to the Port Trust Fund; removing an obsolete reference to a one-time transfer of moneys; providing for loans; providing for transfer of certain interest on the Florida Coastal Protection Trust Fund to the Water Quality Assurance Trust Fund; creating s. 376.22, F.S., establishing the Port Trust Fund; providing for administration; providing uses; providing for investment of moneys and for disposition of interest on investments; providing for prioritization of projects; providing for a local matching contribution; providing for reimbursement of the fund in certain cases; amending s. 376.30, F.S., expanding legislative intent with respect to pollution of surface and ground waters and uses of the Water Quality Assurance Trust Fund in response thereto; amending s. 376.301, F.S., modifying present definitions and adding definitions of "petroleum," "petroleum product," "petroleum storage system," "response action," and "response action contractor"; amending s. 376.303, F.S., clarifying authority of the Department of Environmental Regulation to register pollutant storage tanks; providing for implementation of a compliance verification program; providing for implementation of a notification program for small tanks; providing for issuance and display of registration stickers; providing for registration, renewal, and late fees; providing for notice of renewal; providing for disposition of fees; amending s. 376.305, F.S., providing that certain acts shall not be deemed an admission of responsibility; amending s. 376.307, F.S., relating to the Water Quality Assurance Trust Fund; providing general uses of the fund; providing for funding; prioritizing uses of such funds; providing for transfer of interest between funds; creating s. 376.3071, F.S., establishing the Inland Protection Trust Fund; providing legislative findings and intent; providing uses of the fund; providing for establishment of site selection and cleanup criteria; providing sources of funding, including a loan of \$5 million; providing for recovery and reimbursement; providing for investments; providing for transfer of interest between funds; providing an incentive program for early reporting of petroleum contamination; providing exceptions to entitlement; restricting use of reports as evidence of liability; providing a penalty for intentionally falsifying records or damaging a petroleum storage system; providing for voluntary cleanup; providing for reimbursement for cleanup expenses under certain conditions; providing procedure for notice, application, and review; providing for records; providing a schedule for reimbursement; providing for liberal interpretation; creating the Financial and Technical Advisory Committee; providing membership, duties, organization, and expenses thereof; providing for departmental support; requiring review of certain projects; providing for review and repeal; creating s. 376.3073, F.S., providing for contracts with local governments to administer programs relating to petroleum contamination; providing for notice and application; providing for cleanup criteria; providing for breach of contract; amending s. 376.309, F.S., removing certain financial responsibility requirements; amending s. 376.313, F.S., modifying the strict liability standard under specified circumstances; modifying provisions relating to award of costs of litigation; providing for review and repeal of the new standard; creating s. 376.319, F.S., providing for indemnification of response action contractors under certain circumstances; providing for review and repeal; amending s. 489.105, F.S., providing definitions; amending s. 489.113, F.S.; requiring the Construction Industry Licensing Board to provide standards for installation of pollutant storage

tanks and for certification of pollutant storage systems specialty contractors; providing for temporary certification; prohibiting installation of pollutant storage tanks by uncertified contractors; prohibiting issuance of permits for installation of pollutant storage tanks to uncertified contractors; authorizing the Department of Environmental Regulation to inspect pollutant storage tanks; requiring certification of compliance with installation standards; authorizing the department to contract with local governments for administration of certain responsibilities; authorizing the department to enjoin the use or installation of a pollutant storage tank installed in violation of part I of chapter 489, F.S.; authorizing a pilot inspection program in one county; providing for inspection fees; preempting certain local inspections in the pilot program county; requiring a report to the Legislature; requiring notification of certain mechanical and plumbing contractors; amending s. 489.127, F.S., providing a penalty; providing for repeal and review; amending s. 570.07, F.S., requiring the Department of Agriculture and Consumer Services to notify the Department of Environmental Regulation upon discovery of unregistered storage tanks; amending ss. 376.06, 376.308, 376.313, 376.315, 376.317, 403.091, and 403.1655, F.S., conforming cross references; creating a position within the Department of Health and Rehabilitative Services to assist in carrying out the purposes of the act; providing for funding; repealing ss. 376.11(4)(c), (d), (e), (f), and (g) and 376.307(5)(c), (d), (e), (f), and (g), F.S., removing tax administrative procedure provisions from chapter 376; providing for construction of the act; providing an effective date.

On motions by Senator Thurman, the Senate concurred in the House amendments.

CS for CS for SB 206 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—38

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|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Kirkpatrick | Peterson |
| Barron | Girardeau | Kiser | Plummer |
| Beard | Gordon | Langley | Scott |
| Childers, D. | Grant | Malchon | Stuart |
| Childers, W. D. | Grizzle | Mann | Thomas |
| Crawford | Hair | Margolis | Thurman |
| Crenshaw | Hill | McPherson | Vogt |
| Deratany | Jenne | Meek | Weinstein |
| Dunn | Jennings | Myers | |
| Fox | Johnson | Neal | |

Nays—None

Vote after roll call:

Yea—Gersten

Committee Meeting Change

On motion by Senator Jenne, the rules were waived and the Committee on Rules and Calendar was granted permission to meet this day upon adjournment to consider CS for SJR's 54 and 3, CS for SB 838 and to consider a motion by Senator Fox to introduce a bill on Health and Rehabilitative Services reorganization.

SPECIAL ORDER, continued

On motions by Senator McPherson, by two-thirds vote HB 1292 was withdrawn from the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

On motion by Senator McPherson—

HB 1292—A bill to be entitled An act relating to saltwater products; amending s. 370.027, F.S.; limiting rulemaking authority of the Marine Fisheries Commission; amending s. 370.06, F.S.; prescribing who must have a saltwater products license; amending s. 370.07, F.S.; defining the terms "wholesale dealer" and "retail dealer"; deleting the terms "wholesale seafood dealer" and "retail seafood dealer"; conforming language; clarifying language; providing requirements relating to transportation of saltwater products; providing penalties; providing for the confidentiality of certain reports; amending s. 370.071, F.S.; authorizing the Department of Natural Resources to adopt rules relating to specified sanitary practices involving oysters, clams, mussels, and crabs; providing a license requirement; authorizing the department to revoke such license under certain circumstances; authorizing the destruction of certain adulterated or mis-

branded products; amending s. 6, ch. 83-134, Laws of Florida, as amended; revising the list of statutory provisions relating to marine fisheries that will stand repealed upon adoption of appropriate rules by the Governor and Cabinet; providing that certain rules shall remain in force as rules of the Department of Natural Resources; providing that oysters sold in this state must be labeled as to point of harvest; providing effective dates.

—a companion measure, was substituted for CS for SB 1145 and read the second time by title.

Senator Myers moved the following amendment:

Amendment 1—On page 15, between lines 4 and 5, insert:

Section 8. Section 370.0265, Florida Statutes, is created to read:

370.0265 Trawler efficiency device study.—

(1) It is the intent of the Legislature to protect threatened and endangered species. Sea turtles are classified as federally endangered and data suggests a high mortality of these animals occurs as incidental catches in shrimp trawls. The installation of a device known as the trawler efficiency device (T.E.D.) has shown to be ninety-seven percent effective in eliminating incidental sea turtle catches by shrimp trawls.

The Division of Marine Resources is hereby directed to initiate a field study relative to determining the feasibility and design of trawler efficiency devices. The division shall investigate the cost effectiveness of mandating the use of such devices by shrimpers using Florida waters as well as to determine an effective lightweight design for such devices. The division shall report to the President of the Senate, the Speaker of the House of Representatives, and the Governor no later than January 5, 1987.

(2) The sum of \$50,000 is appropriated from the Nongame Wildlife Trust Fund to the Division of Marine Resources to carry out the purposes of this Act.

(Renumber subsequent section.)

Senator Mann moved the following amendment to Amendment 1 which was adopted:

Amendment 1A—On page 2, strike all of lines 1-3.

Senator Stuart presiding

Amendment 1 as amended failed.

On motion by Senator McPherson, by two-thirds vote HB 1292 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

| | | | |
|-----------------|-----------|-----------|-----------|
| Barron | Frank | Kiser | Plummer |
| Beard | Gersten | Malchon | Scott |
| Childers, D. | Girardeau | Mann | Stuart |
| Childers, W. D. | Gordon | Margolis | Thomas |
| Crawford | Grant | McPherson | Thurman |
| Crenshaw | Grizzle | Meek | Vogt |
| Deratany | Hair | Myers | Weinstein |
| Dunn | Hill | Neal | |
| Fox | Jenne | Peterson | |

Nays—None

Vote after roll call:

Yea—Mr. President, Kirkpatrick

CS for SB 1145 was laid on the table.

On motion by Senator Hair, by two-thirds vote HCR 95 was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Hair—

HCR 95—A concurrent resolution urging the southern states to hold a regional presidential preference primary.

—a companion measure, was substituted for SCR 9, read the second time in full, adopted and certified to the House. The vote on adoption was:

Yeas—33

| | | | |
|-----------------|-----------|-----------|-----------|
| Barron | Frank | Langley | Scott |
| Beard | Gersten | Malchon | Stuart |
| Childers, D. | Girardeau | Mann | Thomas |
| Childers, W. D. | Gordon | Margolis | Thurman |
| Crawford | Grant | McPherson | Vogt |
| Crenshaw | Hair | Meek | Weinstein |
| Deratany | Hill | Myers | |
| Dunn | Johnson | Peterson | |
| Fox | Kiser | Plummer | |

Nays—None

Vote after roll call:

Yea—Mr. President, Jenne, Kirkpatrick, Neal

SCR 9 was laid on the table.

CS for SB 62—A bill to be entitled An act relating to correction work programs; amending s. 946.15, F.S.; providing exceptions to mandatory contract language; providing an effective date.

—was read the second time by title.

Senator Hill moved the following amendments which were adopted:

Amendment 1—On page 1, between lines 28 and 29, insert:

Section 2. Subsection (3) of section 946.14, Florida Statutes, is amended to read:

946.14 Civil rights of inmates; inmates not state employees; liability of corporation for inmate injuries.—

(3) The corporation is liable for inmate injury *and injuries to other persons* to the extent specified in s. 768.28; however, the members of the board of directors, *officers, and employees* are not individually liable to any *person inmate* for any injury arising out of ~~sustained in~~ any correctional work program operated by the corporation.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 4, after the semicolon (;) insert: amending s. 946.14, F.S.; providing conditions of liability for injuries;

On motion by Senator Hill, by two-thirds vote CS for SB 62 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

| | | | |
|-----------------|-----------|-----------|-----------|
| Barron | Frank | Johnson | Scott |
| Beard | Gersten | Kiser | Stuart |
| Childers, D. | Girardeau | Malchon | Thomas |
| Childers, W. D. | Grant | Mann | Thurman |
| Crawford | Grizzle | Margolis | Vogt |
| Crenshaw | Hair | McPherson | Weinstein |
| Deratany | Hill | Meek | |
| Dunn | Jenne | Myers | |
| Fox | Jennings | Plummer | |

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Neal, Peterson

CS for SB 32—A bill to be entitled An act relating to motor vehicles; creating s. 316.1936, F.S.; prohibiting the possession of open containers of alcoholic beverages in motor vehicles being operated in the state; providing exceptions; providing penalties; providing an effective date.

—was taken up having been read and amended on May 29.

The President presiding

On motion by Senator D. Childers, CS for SB 32 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—25

| | | | |
|-----------------|---------|-------------|-----------|
| Mr. President | Dunn | Kirkpatrick | Plummer |
| Beard | Fox | Langley | Stuart |
| Castor | Frank | Margolis | Thomas |
| Childers, D. | Gersten | McPherson | Weinstein |
| Childers, W. D. | Grizzle | Myers | |
| Crawford | Jenne | Neal | |
| Crenshaw | Johnson | Peterson | |

Nays—13

| | | | |
|-----------|----------|---------|------|
| Barron | Grant | Kiser | Vogt |
| Deratany | Hair | Mann | |
| Girardeau | Hill | Meek | |
| Gordon | Jennings | Thurman | |

Vote after roll call:

Yea—Malchon

Nay—Scott

Senator W. D. Childers presiding

SB 342—A bill to be entitled An act relating to the Senior Management Service; amending s. 110.402, F.S.; providing for benefits for the Adjutant General and the Assistant Adjutant Generals of the Florida National Guard; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations recommended the following amendment which was moved by Senator Thomas and adopted:

Amendment 1—On page 1, line 17, strike “Generals” and insert: *General*

Senator Hill moved the following amendment which was adopted:

Amendment 2—On page 1, between lines 9 and 10, insert:

Section 1. Paragraph (j) is added to subsection (1) of section 110.403, Florida Statutes, to read:

110.403 Powers and duties of the Department of Administration.—

(1) In order to implement the purposes of this part, the Department of Administration, after approval by the Administration Commission, shall adopt and amend rules providing for:

(j) *A system to provide that a law enforcement officer who is appointed to a Senior Management Service position from a position in the Career Service System shall be given the option of reappointment to his highest previous permanent rank within the Career Service System if the officer is dismissed from the Senior Management Service for reason other than cause as defined in s. 110.227(1). The determination of cause sufficient to sustain dismissal without reappointment to a career service position as provided herein shall be subject to the provisions of chapter 120.*

(Renumber subsequent sections.)

Senator Margolis moved the following amendment which was adopted:

Amendment 3—On page 1, between lines 20 and 21, insert:

Section 2. Subsection (6) is added to section 624.307, Florida Statutes, to read:

624.307 General powers, duties.—

(6) *The department may employ actuaries who shall be at-will employees and who shall serve at the pleasure of the Insurance Commissioner. Actuaries employed pursuant to this paragraph shall be members of the Society of Actuaries or the Casualty Actuarial Society and shall be exempt from the career service system established under chapter 110. The salaries of the actuaries employed pursuant to this paragraph by the department shall be set in accordance with s. 216.251(2)(a)5. The benefits shall be the same as those provided for the Senior Management Service.*

Section 3. For the 1986-1987 fiscal year, there is hereby appropriated the sum of \$96,943.64 from the Insurance Commissioner's Regulatory Trust Fund for the purpose of increasing the salary levels paid to actuar-

ies employed by the Department of Insurance pursuant to s. 624.307(6), Florida Statutes, to salary levels which are commensurate with salary levels paid to actuaries by the insurance industry.

(Renumber subsequent section.)

The Committee on Governmental Operations recommended the following amendment which was moved by Senator Thomas and adopted:

Amendment 4—In title, on page 1, line 5, strike "Generals" and insert: General

Senator Hill moved the following amendment which was adopted:

Amendment 5—In title, on page 1, lines 2 and 3, strike "the Senior Management Service" and insert: state employment; amending s. 110.403, F.S.; permitting certain law enforcement officers who are members of the Senior Management Service and who are dismissed without cause to be reinstated in the Career Service System

Senator Margolis moved the following amendment which was adopted:

Amendment 6—In title, on page 1, line 1, strike everything before the enacting clause and insert: An act relating to state employment; amending s. 110.402, F.S.; providing for benefits for the Adjutant General and the Assistant Adjutant Generals of the Florida National Guard; amending s. 624.307, F.S., authorizing the Department of Insurance to employ actuaries who shall be at-will employees and serve at the pleasure of the commissioner; providing qualifications; providing salaries and benefits; providing an appropriation; providing an effective date.

On motion by Senator Thomas, by two-thirds vote SB 342 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

| | | | |
|-----------------|----------|-------------|-----------|
| Barron | Frank | Kirkpatrick | Peterson |
| Beard | Gersten | Kiser | Plummer |
| Castor | Gordon | Langley | Scott |
| Childers, D. | Grant | Malchon | Stuart |
| Childers, W. D. | Grizzle | Mann | Thomas |
| Crawford | Hair | Margolis | Thurman |
| Crenshaw | Hill | McPherson | Vogt |
| Deratany | Jenne | Meek | Weinstein |
| Dunn | Jennings | Myers | |
| Fox | Johnson | Neal | |

Nays—None

SB 1214—A bill to be entitled An act relating to warranty deeds; amending s. 689.02, F.S.; requiring inclusion of a blank space for entry of the property appraiser's parcel identification number on warranty deeds; providing for the effect of noncompliance; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil recommended the following amendments which were moved by Senator Weinstein and adopted:

Amendment 1—On page 2, line 11, strike "1986" and insert: 1987

Amendment 2—On page 2, line 10, after "conveyance" insert: *or the recordability of the deed*

On motion by Senator Weinstein, by two-thirds vote SB 1214 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—25

| | | | |
|-----------------|-----------|----------|-----------|
| Beard | Frank | Kiser | Plummer |
| Childers, D. | Gersten | Langley | Thomas |
| Childers, W. D. | Girardeau | Malchon | Thurman |
| Crawford | Grant | Margolis | Weinstein |
| Deratany | Hill | Meek | |
| Dunn | Jennings | Myers | |
| Fox | Johnson | Peterson | |

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick, Neal

CS for SB 1206—A bill to be entitled An act relating to eggs and poultry; authorizing the Department of Agriculture and Consumer Services to impose fines and take other disciplinary action against certain persons for violations of the Florida seal of quality law; providing an effective date.

—was read the second time by title.

Senator Meek moved the following amendments which were adopted:

Amendment 1—On page 1, line 10, insert:

Section 1. (1) A 14-member Florida Food Utilization Advisory Council is hereby created in the Department of Agriculture and Consumer Services for the purpose of determining the feasibility of a cost-efficient means of information exchange and coordination between state agencies and private organizations involved in surplus food distribution. The council shall be composed of the President of the Florida Agricultural Council, Inc., or his designee; the President of the Retail Grocers Association or his designee; the President of the Institute of Food Technologists or his designee; and the Executive Director of a Food Bank or his designee. The department shall select a representative from recommendations submitted by the department head of each of the following agencies:

(1) The Department of Agriculture and Consumer Services.

(2) The Department of Health and Rehabilitative Services. The representative shall be familiar with the Environmental Health Program of the Department of Health and Rehabilitative Services.

(3) The Institute of Food and Agricultural Sciences.

The remaining members shall be appointed by the department from seven private organizations involved in surplus food distribution. Members of the advisory council shall serve without compensation, but may receive per diem and travel expenses as provided in s. 112.061, Florida Statutes. The department shall provide staff for the council. The council shall continue in existence until the completion of its report or until March 1, 1987, whichever first occurs.

Section 2. The advisory council shall hold its first meeting within 30 days after the appointment of members, and shall elect a chairman from among its membership. The advisory council shall meet periodically at the call of the chairman and shall advise the department concerning proposals relating to surplus food distribution. The department shall report to the Legislature its findings and recommendations and those of the Florida Food Utilization Advisory Council and shall prepare and submit to the President of the Senate and the Speaker of the House of Representatives no later than March 1, 1987, a report containing:

(1) Recommendations concerning the state's role in providing coordination support for organizations involved in surplus food distribution;

(2) An estimate of the revenues needed to finance such coordination support;

(3) Proposed legislation to implement the recommendations of the advisory council; and

(4) Any other proposals or recommendations which address the problem.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, strike all of lines 2-7, and insert: An act relating to the Department of Agriculture and Consumer Services; creating the Florida Food Utilization Advisory Council within the Department of Agriculture and Consumer Services; providing for membership and functions; requiring a report and proposed legislation; authorizing the department to impose fines and take other disciplinary action against certain persons for violations of the Florida seal of quality law; providing an effective date.

WHEREAS, there is evidence that a significant amount of food which is wasted in processing and marketing could actually be salvaged and distributed to individuals who are underfed or lack proper nutrition, and

WHEREAS, the Legislature recognizes that various private groups and volunteer organizations are presently working in this state to distribute surplus and otherwise wasted foodstuffs, by way of food banks and other outlets, to low-income individuals, and

WHEREAS, the Legislature wishes to provide for coordination of information concerning areas of greatest need and information concerning the location and availability of surplus food, and

WHEREAS, the Legislature recognizes the necessity of coordinating government and private response to emergency food aid situations and the necessity of protecting the health and safety of individuals receiving surplus food, and

WHEREAS, the Legislature wishes to establish a central clearing house to coordinate and assist the efforts of all groups involved in planning and implementing surplus food distribution, NOW, THEREFORE,

On motion by Senator Grant, by two-thirds vote CS for SB 1206 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29

| | | | |
|-----------------|-----------|-----------|-----------|
| Barron | Girardeau | Malchon | Scott |
| Beard | Gordon | Mann | Thomas |
| Childers, D. | Grant | McPherson | Thurman |
| Childers, W. D. | Grizzle | Meek | Vogt |
| Crawford | Jennings | Myers | Weinstein |
| Deratany | Johnson | Neal | |
| Fox | Kiser | Peterson | |
| Gersten | Langley | Plummer | |

Nays—None

Vote after roll call:

Yea—Dunn, Jenne, Kirkpatrick

Reconsideration

On motion by Senator Grant, the Senate reconsidered the vote by which CS for SB 1206 as amended passed.

On motions by Senator Grant, by two-thirds vote HB 1209 was withdrawn from the Committees on Agriculture and Appropriations.

On motion by Senator Grant—

HB 1209—A bill to be entitled An act relating to eggs and poultry; authorizing the Department of Agriculture and Consumer Services to impose fines and take other disciplinary action against certain persons for violations of the Florida seal of quality law; providing an effective date.

—a companion measure, was substituted for CS for SB 1206 and read the second time by title. On motion by Senator Grant, by two-thirds vote HB 1209 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

| | | | |
|-----------------|-----------|-----------|-----------|
| Barron | Gersten | Langley | Plummer |
| Beard | Girardeau | Malchon | Scott |
| Childers, D. | Grant | Mann | Stuart |
| Childers, W. D. | Grizzle | Margolis | Thomas |
| Crawford | Hair | McPherson | Thurman |
| Crenshaw | Jennings | Meek | Vogt |
| Deratany | Johnson | Neal | Weinstein |
| Fox | Kiser | Peterson | |

Nays—None

Vote after roll call:

Yea—Dunn, Jenne, Kirkpatrick, Myers

CS for SB 1206 was laid on the table.

On motions by Senator Hair, by two-thirds vote HB 723 was withdrawn from the Committees on Rules and Calendar and Appropriations.

On motion by Senator Hair—

HB 723—A bill to be entitled An act relating to the Florida School for the Deaf and the Blind; amending s. 242.331, F.S.; prohibiting use of school funds for compensation of lobbyists; providing an effective date.

—a companion measure, was substituted for CS for SB 410 and read the second time by title. On motion by Senator Hair, by two-thirds vote HB 723 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

| | | | |
|-----------------|-----------|-----------|-----------|
| Beard | Girardeau | Malchon | Plummer |
| Childers, D. | Grant | Mann | Scott |
| Childers, W. D. | Grizzle | Margolis | Thomas |
| Crawford | Hair | McPherson | Thurman |
| Crenshaw | Jennings | Meek | Weinstein |
| Deratany | Johnson | Myers | |
| Fox | Kiser | Neal | |
| Gersten | Langley | Peterson | |

Nays—None

Vote after roll call:

Yea—Dunn, Jenne, Kirkpatrick

CS for SB 410 was laid on the table.

CS for SB 312—A bill to be entitled An act relating to a tax on oil, gas, and sulfur production; amending s. 211.01, F.S.; providing definitions; amending s. 211.02, F.S.; imposing an excise tax on oil production; providing a tax rate; providing for measurement of production; creating ss. 211.025, 211.026, F.S.; imposing an excise tax on gas and sulfur production; providing a base rate and an annual tax rate adjustment; providing for measurement of production; creating s. 211.027, F.S.; providing exemptions to the production tax; amending s. 211.06, F.S.; providing for distribution from the Oil and Gas Tax Trust Fund; creating s. 211.075, F.S.; providing filing requirements for tax payment; creating s. 211.076, F.S.; providing for interest and penalties; amending s. 211.09, F.S.; providing for deducting and withholding tax under certain circumstances; creating s. 211.125, F.S.; providing for administration; providing for inspection of records; providing for audits and deficiency assessment; providing a claim for refund; providing for tax executions; amending s. 211.13, F.S.; providing that no additional tax be imposed or the ad valorem tax be increased for certain land; creating s. 211.25, F.S.; providing penalties; amending s. 253.023, F.S.; providing for deposit of certain tax proceeds in the Conservation and Recreation Lands Trust Fund; repealing ss. 211.015, 211.03, 211.031, 211.05, 211.07, 211.08, 211.10, 211.11, 211.12, 211.17, 211.20, F.S., relating to tax on the production of oil and gas; providing a retroactive effective date.

—was read the second time by title. On motion by Senator Crawford, by two-thirds vote CS for SB 312 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

| | | | |
|-----------------|-----------|-----------|-----------|
| Barron | Fox | Langley | Plummer |
| Beard | Gersten | Malchon | Scott |
| Castor | Girardeau | Mann | Stuart |
| Childers, D. | Gordon | Margolis | Thomas |
| Childers, W. D. | Grant | McPherson | Thurman |
| Crawford | Grizzle | Meek | Vogt |
| Crenshaw | Jennings | Myers | Weinstein |
| Deratany | Johnson | Neal | |
| Dunn | Kiser | Peterson | |

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick

CS for SB 931—A bill to be entitled An act relating to ad valorem taxation; amending s. 192.037, F.S.; specifying the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation as the agency to receive and disburse certain escrow accounts; amending s. 193.074, F.S.; providing for confidentiality of certain returns; amending s. 194.013, F.S.; providing for refunding certain filing fees under certain circumstances; amending s. 195.002, F.S.; broadening the Department of Revenue's authority to administer certain schools; authorizing the department to charge certain fees; providing that such fees are not state funds; amending s. 195.087, F.S.; authorizing tax collectors and property appraisers to pay certain fees to the department; authorizing travel and per diem expenses under certain circumstances; amending s. 196.1995, F.S.; making prospective the application of certain ad valorem tax exemption provisions; amending s. 200.065, F.S.; removing certain increases in assessed value from the exclusion from rolled-back millage rate calculations; providing that notices of tax increase include references to the budget; creating s. 201.022, F.S.; requiring that a return showing real property interest transfers be filed with the clerk of the circuit court; providing for confidentiality; providing an effective date.

—was read the second time by title.

Senators Deratany and Gordon offered the following amendment which was moved by Senator Deratany and adopted:

Amendment 1—On page 3, between lines 2 and 3, insert:

Section 2. Subsection (6) is added to section 193.023, Florida Statutes, to read:

193.023 Duties of the property appraiser in making assessments.—

(6) In making his assessment of improved property which is subject to a lease entered into prior to 1965 in an arms-length, legally binding transaction which is not designed to avoid ad valorem taxation and which has been determined by the courts of this state to restrict the use of the property, the property appraiser shall assess the property on the basis of the highest and best use permitted by the lease and the income derived from the property, and not on the basis of a use not permitted by the lease or on income which could be derived from a use not permitted by the lease. This subsection is intended to clarify existing legislative intent and shall apply to all assessments made hereafter and to all assessments which are the subject of pending litigation.

(Renumber subsequent sections.)

Senators Crawford and Fox offered the following amendment which was moved by Senator Crawford and adopted:

Amendment 2—On page 9, between lines 17 and 18, insert:

Section 9. Subsection (9) is added to section 196.199, Florida Statutes, to read:

196.199 Exemptions for property owned by governmental units.—

(9) Improvements to real property which are located on state owned land and which are leased to a public educational institution shall be deemed owned by the public educational institution for purposes of this section where, by the terms of the lease, the improvement will become the property of the public educational institution or the state of Florida at the expiration of the lease.

(Renumber subsequent section.)

Senator Crawford moved the following amendment which was adopted:

Amendment 3—On page 9, between lines 17 and 18, insert:

Section 9. Subsection (2) of section 193.461, Florida Statutes, is amended to read:

193.461 Agricultural lands; classification and assessment.—

(2) Any landowner whose land is denied agricultural classification by the property appraiser may appeal to the property appraisal adjustment board. The property appraiser shall notify the landowner in writing of the denial of agricultural classification on or before July 1 not later than June 1 of the year for which the application was filed. The notification shall advise the landowner of his right to appeal to the property appraisal adjustment board and of the filing deadline. The board may also review all lands classified by the property appraiser upon its own motion. The property appraiser shall have available at his office a list by ownership of all applications received showing the acreage, the full valuation under s. 193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

Section 10. Section 196.151, Florida Statutes, is amended to read:

196.151 Homestead exemptions; approval, refusal, hearings.—The property appraisers of the several counties of the state shall, as soon as practicable after March 1 of each current year and on or before July 1 prior to the first Monday in May of that year, carefully consider all applications for tax exemptions that have been filed in their respective offices on or before March 1 of that year. If, upon such investigation, the property appraiser finds that the applicant is entitled to the tax exemption applied for under the law, he shall make such entries upon the tax rolls of the county as will be necessary to allow such exemption to the applicant. If, after due consideration, the property appraiser finds that the applicant is not entitled under the law to the exemption asked for, he shall immediately make out a notice of such disapproval, giving his reasons therefor, a copy of which notice shall be served upon the applicant by the property appraiser either by personal delivery or by registered

mail to the post-office address given by the applicant, and shall file the notice with the clerk of the property appraisal adjustment board of the county. The notice of disapproval of application for exemption, when filed with the clerk of the property appraisal adjustment board, shall constitute an appeal of the applicant to the board from the decision of the property appraiser refusing to allow the exemption for which application was made, and the board shall review the application and evidence presented to the property appraiser upon which the applicant based his claim for exemption and shall hear the applicant in person or by agent on behalf of his right to such exemption. The property appraisal adjustment board shall reverse the decision of the property appraiser in the cause and grant exemption to the applicant if in its judgment the applicant is entitled thereto or shall affirm the decision of the property appraiser. Such action of the board shall be final in the cause unless the applicant shall, within 15 days from the date of refusal of the application by the board, file in the circuit court of the county in which the homestead is situated a proceeding against the property appraiser for a declaratory judgment as is provided by chapter 86 or other appropriate proceeding. The failure of the taxpayer to appear before the property appraiser or property appraisal adjustment board or to file any paper other than the application above provided shall not constitute any bar or defense to said proceedings.

Section 11. Subsection (5) of section 196.193, Florida Statutes, is amended to read:

196.193 Exemption applications; review by property appraiser.—

(5) In the event the property appraiser shall determine that any property claimed as wholly or partially exempt under this section is not entitled to any exemption or is entitled to an exemption to an extent other than that requested in the application, he shall notify the person or organization filing the application on such property of that determination in writing on or before July 1 not later than June 1 of the year for which the application was filed. All notifications must specify the right to appeal to the property appraisal adjustment board and the procedures to follow in obtaining such an appeal. Thereafter, the person or organization filing such application, or a duly designated representative, may appeal that determination by the property appraiser to the board at the time of its regular hearing. In the event of an appeal, the property appraiser or his representative shall appear at the board hearing and present his findings of fact. If the applicant is not present or represented at the hearing, the board may make a determination on the basis of information supplied by the property appraiser or such other information on file with the board.

(Renumber subsequent section.)

Senator Margolis moved the following amendment which was adopted:

Amendment 4—On page 9, strike all of lines 18 and 19 and insert:

Section 9. Subsection (3) is added to section 196.131, Florida Statutes, to read:

196.131 Homestead exemptions; claims.—

(3) Any county may, at the request of the property appraiser and by majority vote of its governing body, waive the requirement that annual application be made for exemption for property within the county after an initial application is made and exemption granted, except that reapplication shall be required when any property granted an exemption is sold or otherwise disposed of, or the ownership changes in any manner, or the applicant for homestead exemption ceases to use the property as his or her homestead. In its deliberations on whether to waive the annual application requirement, the governing body shall consider the possibility of fraudulent homestead exemption claims which may occur due to the waiver of the annual application requirement. It is the duty of the owner of any property granted an exemption who is not required to file an annual application to notify the property appraiser promptly whenever the use of the property changes so as to change the exempt status of the property. Any property owner who fails to so notify the property appraiser shall be subject to the provisions of s. 196.161. This subsection shall apply only to exemptions requested pursuant to s. 196.031.

Section 10. Paragraph (b) of subsection (1) of section 196.161, Florida Statutes, is amended to read:

196.161 Homestead exemptions; lien imposed on property of person claiming exemption although not a permanent resident.—

(b) In addition, upon determination by the property appraiser that for any year or years within the prior 10 years a person who was *not entitled to a homestead exemption not a permanent resident of this state* was granted a homestead exemption from ad valorem taxes, that person's property which is situated in this state shall be subject to the taxes exempted thereby, plus 15 percent interest per annum.

Section 11. This act shall take effect upon becoming a law, and sections 8 and 9 of this act shall apply to assessment rolls for 1987 and thereafter.

Senator Langley moved the following amendment which was adopted:

Amendment 5—On page 4, between lines 29 and 30, insert:

Section 6. Section 196.196, Florida Statutes, is amended to read:

196.196 Criteria for determining that portion of charitable, religious, scientific or literary property entitled to exempt status.—

(1) In the determination of whether an applicant is actually using all or a portion of its property predominantly for a charitable, religious, scientific, or literary purpose, the following criteria shall be applied:

(a) The nature and extent of the charitable, religious, scientific, or literary activity of the applicant, a comparison of such activities with all other activities of the organization, and the utilization of the property for charitable, religious, scientific or literary activities as compared with other uses.

(b) The extent to which the property has been made available to groups who perform exempt purposes, at a charge that is equal to or less than the cost of providing the facilities for their use, or the extent to which services are provided to persons at a charge that is equal to or less than the cost of providing such services. Such rental or service shall be considered as part of the exempt purposes of the applicant.

(2) Only those portions of property used predominantly for charitable, religious, scientific or literary purposes shall be exempt; *provided however, that property acquired for a religious purpose and held exclusively for that purpose shall be exempt from ad valorem taxation, even though actual use of the property for religious purposes has not yet begun.* In no event shall an incidental use of property either qualify such property for an exemption or impair the exemption of an otherwise exempt property.

(3) Except as otherwise provided herein, property claimed as exempt for literary, scientific, or charitable purposes which is used for profitmaking purposes shall be subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence the revenue of which is used wholly for exempt purposes shall not be considered profit making. In this connection the playing of bingo on such property shall not be considered as using such property in such a manner as would impair its exempt status.

(Renumber subsequent section.)

Senator Grant moved the following amendment which was adopted:

Amendment 6—On page 4, between lines 29 and 30, insert:

Section 6. Paragraph (c) of subsection (2) of section 145.10, Florida Statutes, is amended to read:

145.10 Property appraiser.—

(2)(a) There shall be an additional \$2,000 per year special qualification salary for each property appraiser who has met the requirements of the Department of Revenue and has been designated a certified Florida property appraiser. Any property appraiser who is certified during a calendar year shall receive in that year a pro rata share of the special qualification salary based on the remaining period of the year. The department shall establish and maintain a certified Florida property appraiser program.

(b) In order to qualify for the special qualification salary described in paragraph (a), the property appraiser must complete the requirements established by the Department of Revenue within 6 years after first taking office, except that those property appraisers holding office on July 1, 1980, shall have until July 1, 1986, to complete such requirements.

(c) After a property appraiser meets the requirements of paragraph (a), in order to remain certified the property appraiser shall thereafter be required to complete each year a course of continuing education as prescribed by the department. *The Executive Director of the Department of Revenue may, at his discretion, waive the requirements of this paragraph for any property appraiser who has reached 60 years of age and who has been a property appraiser for 20 years.*

(Renumber subsequent sections.)

Senator Deratany moved the following amendment which was adopted:

Amendment 7—In title, on page 1, line 7, after "accounts," insert: amending s. 193.023, F.S.; providing for basis for assessment of leased property;

Senators Crawford and Fox offered the following amendment which was moved by Senator Crawford and adopted:

Amendment 8—In title, on page 2, line 1, after the semicolon (;) insert: amending s. 196.199, F.S.; providing that certain improvements to real property on state owned land and leased to public educational institutions shall be deemed owned by such institution;

Senator Crawford moved the following amendment which was adopted:

Amendment 9—In title, on page 2, line 1, after the semicolon (;) insert: amending ss. 193.461, 196.151, 196.193, F.S.; providing certain filing deadline dates;

Senator Margolis moved the following amendment which was adopted:

Amendment 10—In title, on page 2, line 1, after the semicolon (;) insert: amending s. 196.131, F.S.; authorizing counties to waive the requirement for annual application for homestead exemption; providing for application of certain lien provisions; amending section 196.161, F.S., providing for taxes and interest on certain persons not entitled to a homestead exemption;

Senator Langley moved the following amendment which was adopted:

Amendment 11—In title, on page 1, line 20, after the semicolon (;) insert: amending s. 196.196, F.S.; providing that certain property acquired and held for religious purposes shall be exempt from ad valorem taxation even though actual use of the property has not yet begun;

On motion by Senator Crawford, by two-thirds vote CS for SB 931 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

| | | | |
|-----------------|-----------|-------------|-----------|
| Barron | Fox | Kirkpatrick | Myers |
| Beard | Gersten | Kiser | Peterson |
| Castor | Girardeau | Langley | Plummer |
| Childers, D. | Grant | Malchon | Scott |
| Childers, W. D. | Grizzle | Mann | Stuart |
| Crawford | Hair | Margolis | Thomas |
| Crenshaw | Jennings | McPherson | Thurman |
| Dunn | Johnson | Meek | Weinstein |

Nays—None

Vote after roll call:

Yea—Deratany, Jenne, Neal

HB 154—A bill to be entitled An act relating to unidentified persons; amending s. 406.13, F.S., requiring notification of a law enforcement agency by medical examiners in certain situations; creating s. 937.032, F.S., requiring a law enforcement agency to enter certain information on unidentified persons into an unidentified person file; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote HB 154 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

| | | | |
|--------------|-----------------|----------|-----------|
| Beard | Childers, W. D. | Deratany | Girardeau |
| Castor | Crawford | Frank | Gordon |
| Childers, D. | Crenshaw | Gersten | Grant |

| | | | |
|-------------|-----------|----------|-----------|
| Grizzle | Kiser | Meek | Stuart |
| Hair | Langley | Myers | Thomas |
| Hill | Malchon | Neal | Thurman |
| Jennings | Mann | Peterson | Vogt |
| Johnson | Margolis | Plummer | Weinstein |
| Kirkpatrick | McPherson | Scott | |

Nays—None

Vote after roll call:

Yea—Jenne, Dunn

Consideration of CS for CS for SB 670 and CS for SB 224, and SB 651 was deferred.

SB 784—A bill to be entitled An act relating to transportation of school children; amending s. 234.01, F.S., modifying transportation duties of the district school boards; amending ss. 234.061 and 234.112, F.S., authorizing school boards to provide by rule for designation of nontransportation zones, school bus routes, and school bus stops; amending s. 236.083, F.S., authorizing additional types of transportation of students; modifying the formula for calculating each school district's allocation for student transportation; authorizing transport by passenger cars or boats under certain circumstances; deleting obsolete language relating to pilot projects for transport of the elderly or handicapped; amending s. 236.0835, F.S., modifying procedures with respect to purchase of replacement school buses; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote SB 784 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

| | | | |
|-----------------|-------------|-----------|-----------|
| Barron | Frank | Kiser | Plummer |
| Beard | Gersten | Langley | Scott |
| Childers, D. | Girardeau | Malchon | Stuart |
| Childers, W. D. | Grant | Mann | Thomas |
| Crawford | Grizzle | Margolis | Thurman |
| Crenshaw | Hair | McPherson | Weinstein |
| Deratany | Jennings | Meek | |
| Dunn | Johnson | Myers | |
| Fox | Kirkpatrick | Peterson | |

Nays—None

Vote after roll call:

Yea—Castor, Jenne, Neal

Reconsideration

On motion by Senator Weinstein, the Senate reconsidered the vote by which SB 784 passed.

Senator Weinstein moved the following amendments which were adopted by two-thirds vote:

Amendment 1—On page 9, between lines 30 and 31, insert:

Section 6. Subsection (2) of section 235.055, Florida Statutes, is amended to read:

235.055 Construction of facilities on leased property conditions.—

(2) A board, including the Board of Regents, is authorized, when such action is approved by the office, to enter into a short-term lease for the use of land owned by any of the entities enumerated in subsection (1), or if sufficient land is not available from such entities from a private land owner/developer, on which temporary or relocatable facilities are to be utilized.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 19, following "buses" insert: ; amending 235.055, F.S., authorizing school boards to enter into leases with private land owners for the purpose of building a temporary or relocatable facility;

On motion by Senator Weinstein, SB 784 as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

| | | | |
|-----------------|-----------|-----------|-----------|
| Barron | Dunn | Langley | Plummer |
| Beard | Frank | Malchon | Scott |
| Castor | Girardeau | Mann | Stuart |
| Childers, D. | Grant | Margolis | Thomas |
| Childers, W. D. | Hill | McPherson | Thurman |
| Crawford | Jennings | Meek | Weinstein |
| Crenshaw | Johnson | Myers | |
| Deratany | Kiser | Peterson | |

Nays—None

Vote after roll call:

Yea—Gersten, Hair, Kirkpatrick, Neal

SPECIAL ORDER, continued

SB 572—A bill to be entitled An act relating to worthless checks; amending s. 832.07, F.S., changing certain requirements upon prima facie evidence of identity of a person issuing a worthless check; providing an effective date.

—was read the second time by title.

One amendment was adopted to SB 572 to conform the bill to HB 171.

Pending further consideration of SB 572 as amended, on motion by Senator Thurman, by two-thirds vote HB 171 was withdrawn from the Committee on Judiciary-Criminal.

On motion by Senator Thurman—

HB 171—A bill to be entitled An act relating to worthless checks; amending s. 832.07, F.S., changing certain requirements upon prima facie evidence of identity of a person issuing a worthless check; providing an effective date.

—a companion measure, was substituted for SB 572 and read the second time by title. On motion by Senator Thurman, by two-thirds vote HB 171 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

| | | | |
|-----------------|-----------|-------------|-----------|
| Barron | Frank | Johnson | Meek |
| Beard | Gersten | Kirkpatrick | Myers |
| Castor | Girardeau | Kiser | Plummer |
| Childers, D. | Gordon | Langley | Scott |
| Childers, W. D. | Grant | Malchon | Stuart |
| Crawford | Grizzle | Mann | Thomas |
| Crenshaw | Hair | Margolis | Thurman |
| Deratany | Jennings | McPherson | Weinstein |

Nays—None

Vote after roll call:

Yea—Jenne, Neal, Peterson

SB 572 was laid on the table.

CS for SB 863—A bill to be entitled An act relating to permit processing; amending s. 403.0876, F.S.; establishing a special unit for permit coordination and processing in the Division of Permitting of the Department of Environmental Regulation; establishing procedures for processing of applications; providing for fees; providing for expedited administrative hearings; providing additional positions; providing an appropriation; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote CS for SB 863 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

| | | | |
|-----------------|-----------|----------|-------------|
| Barron | Crenshaw | Grant | Kirkpatrick |
| Beard | Deratany | Grizzle | Kiser |
| Castor | Dunn | Hair | Langley |
| Childers, D. | Frank | Hill | Malchon |
| Childers, W. D. | Gersten | Jennings | Mann |
| Crawford | Girardeau | Johnson | Margolis |

| | | | |
|-----------|----------|--------|-----------|
| McPherson | Peterson | Stuart | Weinstein |
| Myers | Plummer | Thomas | |
| Neal | Scott | Vogt | |

Nays—None

Vote after roll call:

Yea—Jenne

On motion by Senator Thurman, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Harry A. Johnston, II, President

I am directed to inform the Senate that the House of Representatives returns SB 83 as requested.

SB 83—A bill to be entitled An act relating to theft; amending s. 812.014, F.S.; increasing the minimum property value necessary for a theft to be classified as grand theft of the second degree; providing that theft of any livestock is grand theft of the second degree and a felony of the third degree; amending ss. 832.041, 832.05, F.S.; increasing the minimum monetary value necessary for certain worthless check offenses to be classified as a felony of the third degree; providing penalties; providing an effective date.

Allen Morris, Clerk

On motion by Senator Thurman, the Senate reconsidered the vote by which SB 83 as amended passed June 2.

On motions by Senator Thurman, the Senate reconsidered the vote by which the Senate concurred in House Amendment 1 as amended, and in House Amendment 2.

Amendment 1 to House Amendment 1 was withdrawn.

Senator Thurman moved the following amendment to House Amendment 1 which was adopted:

Amendment 2—On page 9, on lines 6 and 26, strike “\$20 \$10” and insert: \$10

Senator Thurman moved the following amendment to House Amendment 2 which was adopted:

Amendment 1—In title, on page 2, strike all of lines 2 and 3 and insert: 832.07, F.S.; providing for

On motion by Senator Thurman, the Senate concurred in the House amendments as amended and the House was requested to concur in the Senate amendments to the House amendments.

SB 83 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

| | | | |
|-----------------|-----------|-------------|-----------|
| Barron | Frank | Johnson | Myers |
| Beard | Gersten | Kirkpatrick | Peterson |
| Castor | Girardeau | Kiser | Plummer |
| Childers, D. | Gordon | Langley | Scott |
| Childers, W. D. | Grant | Malchon | Stuart |
| Crawford | Grizzle | Mann | Thomas |
| Crenshaw | Hair | Margolis | Thurman |
| Deratany | Hill | McPherson | Weinstein |
| Dunn | Jennings | Meek | |

Nays—None

Vote after roll call:

Yea—Jenne, Neal

Reconsideration

On motion by Senator Grant, the Senate reconsidered the vote by which—

HB 1209—A bill to be entitled An act relating to eggs and poultry; authorizing the Department of Agriculture and Consumer Services to impose fines and take other disciplinary action against certain persons for violations of the Florida seal of quality law; providing an effective date.

—passed this day.

Senator Meek moved the following amendments which were adopted by two-thirds vote:

Amendment 1—On page 1, line 10, insert:

Section 1. (1) A 14-member Florida Food Utilization Advisory Council is hereby created in the Department of Agriculture and Consumer Services for the purpose of determining the feasibility of a cost-efficient means of information exchange and coordination between state agencies and private organizations involved in surplus food distribution. The council shall be composed of the President of the Florida Agricultural Council, Inc., or his designee; the President of the Retail Grocers Association or his designee; the President of the Institute of Food Technologists or his designee; and the Executive Director of a Food Bank or his designee. The department shall select a representative from recommendations submitted by the department head of each of the following agencies:

(1) The Department of Agriculture and Consumer Services.

(2) The Department of Health and Rehabilitative Services. The representative shall be familiar with the Environmental Health Program of the Department of Health and Rehabilitative Services.

(3) The Institute of Food and Agricultural Sciences.

The remaining members shall be appointed by the department from seven private organizations involved in surplus food distribution. Members of the advisory council shall serve without compensation, but may receive per diem and travel expenses as provided in s. 112.061, Florida Statutes. The department shall provide staff for the council. The council shall continue in existence until the completion of its report or until March 1, 1987, whichever first occurs.

Section 2. The advisory council shall hold its first meeting within 30 days after the appointment of members, and shall elect a chairman from among its membership. The advisory council shall meet periodically at the call of the chairman and shall advise the department concerning proposals relating to surplus food distribution. The department shall report to the Legislature its findings and recommendations and those of the Florida Food Utilization Advisory Council and shall prepare and submit to the President of the Senate and the Speaker of the House of Representatives no later than March 1, 1987, a report containing:

(1) Recommendations concerning the state's role in providing coordination support for organizations involved in surplus food distribution;

(2) An estimate of the revenues needed to finance such coordination support;

(3) Proposed legislation to implement the recommendations of the advisory council; and

(4) Any other proposals or recommendations which address the problem.

(Renumber subsequent sections.)

Amendment 2—On page 1, line 2, strike “eggs and poultry,” and insert: the Department of Agriculture and Consumer Services; creating the Florida Food Utilization Advisory Council within the department; providing for membership and functions; requiring a report and proposed legislation;

HB 1209 as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—32

| | | | |
|-----------------|-----------|-------------|-----------|
| Barron | Frank | Kirkpatrick | Myers |
| Beard | Gersten | Kiser | Peterson |
| Castor | Girardeau | Langley | Plummer |
| Childers, D. | Grant | Malchon | Scott |
| Childers, W. D. | Grizzle | Mann | Stuart |
| Crenshaw | Hair | Margolis | Thomas |
| Deratany | Hill | McPherson | Thurman |
| Dunn | Jennings | Meek | Weinstein |

Nays—None

Vote after roll call:

Yea—Jenne, Neal

SPECIAL ORDER, continued

On motions by Senator Hill, by two-thirds vote HB 1320 was withdrawn from the Committees on Corrections, Probation and Parole; and Appropriations.

On motion by Senator Hill—

HB 1320—A bill to be entitled An act relating to rights of inmates in a mental health treatment facility; amending s. 945.48, F.S.; authorizing emergency surgical or nonpsychiatric medical care in certain cases when an inmate refuses or is unable to give consent; providing an effective date.

—a companion measure, was substituted for SB 651 and read the second time by title. On motion by Senator Hill, by two-thirds vote HB 1320 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

| | | | |
|-----------------|----------|-------------|-----------|
| Barron | Frank | Kirkpatrick | Peterson |
| Beard | Gersten | Kiser | Plummer |
| Castor | Gordon | Langley | Scott |
| Childers, D. | Grant | Malchon | Stuart |
| Childers, W. D. | Grizzle | Mann | Vogt |
| Crenshaw | Hair | McPherson | Weinstein |
| Dunn | Hill | Meek | |
| Fox | Jennings | Myers | |

Nays—None

Vote after roll call:

Yea—Deratany, Jenne, Neal

SB 651 was laid on the table.

The President presiding

CS for SB 450—A bill to be entitled An act relating to education; creating s. 230.2316, F.S., the Dropout Prevention Act; providing for school district dropout prevention programs; providing legislative intent; providing definitions; providing student eligibility and program criteria; providing procedures for program planning and implementation; providing for evaluation of programs which are approved for state funding; providing for related staff development activities; requiring that certain records be maintained for students participating in dropout prevention programs; providing for coordination of school district dropout prevention programs with other agencies; providing for a manual; providing for rules; providing for community-based dropout prevention program grants; providing a grant application process; describing criteria to be used by the Department of Education in awarding grants; amending s. 236.013, F.S.; conforming terminology; creating s. 232.302; creating the Florida Center for Dropout Prevention at the University of Miami; describing the duties and responsibilities of the center; requiring a report; amending s. 236.0841, F.S.; authorizing school districts to provide dropout prevention activities beyond the required 180 days of instruction; prohibiting school districts from generating state funding for any dropout prevention program which has not been approved pursuant to s. 230.2316, F.S., beginning with the 1987-1988 school year; authorizing school districts to generate state funding during the 1986-1987 school year for any alternative education program which received state funding during the 1985-1986 school year; providing for future repeal of s. 230.2315, F.S., relating to educational alternative programs; requiring the Department of Education to conduct a study and report to the Legislature and Commissioner of Education relating to educational programs for students with limited English proficiency; providing an effective date.

—was read the second time by title.

Senator Meek moved the following amendment which was adopted:

Amendment 1—On page 2, line 17, insert:

Section 1. Learning Development and Evaluation Center.—

(1) For the purpose of providing academic support for learning disabled students, the verbal communications laboratory at Florida Agricultural and Mechanical University is established as the Learning Development and Evaluation Center. The university shall provide housing, equipment, and utilities for the center.

(2) The primary objective of the center shall be to provide learning disabled students with accessibility to learning by providing a program for building student self-acceptance, self-esteem, and faculty acceptance. The program shall also provide for diagnosing and clarifying the nature of the disability and identifying strategies that can be used to enhance learning. Services shall include:

- (a) Problem identification;
- (b) Diagnostic evaluation, including neurological, psychological, speech, and hearing diagnoses;
- (c) Training, including tutoring and study;
- (d) Academic, psychological, social, and vocational counseling;
- (e) Follow-up;
- (f) Maintenance of academic course requirements with provision for support services to identified students; and
- (g) Modifications of methods of reaching course requirements which do not detract from the course purpose.

(3) Participants in the program shall be students with specific learning disabilities who meet eligibility criteria as defined by Rule 6A-6.3018.

(4) An outreach component shall be established which shall include:

- (a) Notifying secondary schools, community colleges, vocational education centers, and community agencies of the program;
- (b) Working with community colleges, vocational education centers, and community agencies to identify students who may benefit from the program;

(c) Providing secondary schools, community colleges, vocational education centers, and community agencies with a description of methods used by the program for identification of students who have learning disabilities;

(d) Providing secondary schools, community colleges, vocational education centers, and community agencies with a description of program services and the support services available;

(e) Providing on-campus and off-campus activities for students, administrators, faculty, and staff to enhance learning of the disabled secondary students;

(f) Providing training for school district personnel to enable them to develop a better understanding of the needs of learning disabled students;

(g) Designing, developing, and implementing, in cooperation with Florida Agricultural and Mechanical University, public school districts, community colleges, and vocational education centers within the Department of Education, model programs for the learning disabled student;

(h) Providing assistance to community colleges and state universities in designing, developing, and evaluating model programs for learning disabled students;

(i) Establishing a procedure for the annual review and update of model programs developed for the learning disabled; and

(j) Providing pre-collegiate residential experiences.

(5) On or before November 1, 1987, and annually thereafter, the president of the university shall submit to the Board of Regents and the Legislature a report on program effectiveness which shall include:

- (a) The number of students participating in the program;
- (b) An ongoing analysis of overall student performance as a result of participation in the program;
- (c) A description of the methods used in identifying students with learning disabilities;
- (d) A description of methods and materials prescribed to meet the specific learning needs of each participant;
- (e) The number and types of disabilities of students in the program;
- (f) How the program accomplished its objectives;

(g) Procedures used to counsel and advise students that would build self-acceptance and enhance learning;

(h) Procedures for promoting faculty acceptance of the program and its participants;

(i) A detailed description of each program objective and the results;

(j) Projections of future participation by learning disabled students based on enrollment, queries, and program results; and

(k) The number of postsecondary and secondary students participating in the program and the type of service provided.

(7) Funding of this program shall be provided for in the General Appropriations Act.

(Renumber subsequent sections.)

Senator Peterson moved the following amendments which were adopted:

Amendment 2—On page 20, between lines 10 and 11, insert:

Section 9. Section 230.645, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 230.645, F.S., for present text.)

230.645 Postsecondary student fees.—

(1) The provisions of this section shall apply to all students enrolled in adult basic, adult high school, adult job preparatory, vocational preparatory, vocational supplemental, or other adult programs who are reported for funding through the Florida Education Finance Program.

(2) The following students are exempt from any requirement for the payment of fees for instruction:

(a) Students who do not have a standard high school diploma or its equivalent and who are enrolled in adult basic or adult high school courses for the purpose of achieving basic literacy or receiving a high school diploma or its equivalent;

(b) Students who do not have a standard high school diploma or its equivalent and who are enrolled in vocational preparatory courses;

(c) Students who have a standard high school diploma or its equivalent, who are enrolled in adult basic, adult high school or vocational preparatory courses, and who have basic skills which have been determined to be at or below the eighth grade level as provided for by state board rule;

(d) Students who are dependents of a deceased or disabled veteran pursuant to s. 295.01 or s. 295.016; and

(e) Students who are dependents of special risk members as defined in s. 121.021(15).

(3) Fees shall be charged for all students not specifically granted an exemption from the payment of fees in subsection (2). School districts may waive fees or accept in-kind contributions in lieu of the payment of fees for any student. Acceptance of in-kind contributions in lieu of fees shall constitute a waiver of fees. The total number of full-time equivalent students for whom the district waives fees or for whom the district accepts an in-kind contribution in lieu of fees shall not exceed the amount established annually in the General Appropriations Act.

(4) Required fees may be paid on behalf of students on a negotiated in-kind basis involving contributions by cooperating entities in the form of facilities, personnel, equipment, or other resources, which are directly related to the instructional program to be provided. Facilities, equipment, personnel, or other resources provided by a cooperating entity for cooperative vocational education programs shall not be considered an in-kind contribution. General purpose classroom space at a site other than in a school district facility shall not be accepted as an in-kind contribution if adequate classroom space is available at a school district facility, unless the classroom space is provided at a facility operated by an approved apprenticeship program. Any school district which reports in-kind contributions in violation of the provisions of this subsection shall be penalized at a rate equal to the value of the full-time equivalent enrollment reported served. Such penalty shall be charged against the district's following year allocation from the Florida Education Finance Program. Any school district accepting in-kind contributions in lieu of fees shall

submit an annual report to the Department of Education which provides, for each in-kind contribution accepted, a detailed description of the contribution, the name of the entity providing the contribution, and verification that the local market value of the contribution is at least equal to the amount of fees in lieu of which the contribution is being accepted.

(5) A required fee shall be set annually in the General Appropriations Act. School districts shall establish a fee for each program specified in subsection (1) which may vary no more than 10 percent from the fee amount established in the General Appropriations Act. Nonresident fees shall be twice the amount of resident fees.

(6) The State Board of Education shall adopt rules to allow the deferral of registration and tuition fees for students receiving financial aid from a federal or state assistance program when such aid is delayed in being transmitted to the student through circumstances beyond control of the student. The failure to make timely application for such aid is an insufficient reason to receive a deferral of fees. The rules shall provide for the enforcement and the collection or other settlement of delinquent accounts.

(7) Any veteran or other eligible student who receives benefits under chapter 32, chapter 34, or chapter 35 of Title 38, U.S.C., is entitled to one deferment each academic year and an additional deferment each time there is a delay in the receipt of his benefits.

(8) Each school district shall be responsible for collecting all deferred fees. If a school district has not collected a deferred fee, the student shall not earn full-time equivalent student enrollment for any course for which the student subsequently registers until the fee has been paid.

(9) Each school district shall report only those students who have actually enrolled in instruction provided or supervised by instructional personnel under contract with the district or institution in calculation of actual full-time equivalent enrollments for state funding purposes. No student who has been exempted from taking a course or who has been granted academic or vocational credit through means other than actual course work completed at the granting institution shall be calculated for enrollment in the course from which he has been exempted or granted credit. School districts that report enrollments in violation of this subsection shall be penalized at a rate equal to the value of such enrollments. Such penalty shall be charged against the following year allocation from the Florida Education Finance Program.

Section 10. Subsection (4) of section 236.081, Florida Statutes, is amended to read:

236.081 Funds for operation of schools.—The annual allocation from the Florida Education Finance Program to each district for operation of schools shall be determined as follows:

(4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the general appropriations act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program shall be calculated as follows:

(a) Estimated and final calculations.—

1. Not later than 2 working days prior to July 19, the Department of Revenue shall certify to the Commissioner of Education its most recent estimate of the nonexempt assessed valuation for school purposes in each school district and the total for all school districts in the state for the current calendar year based on the latest available data obtained from the local property appraisers. Not later than July 19, the commissioner shall compute a millage rate, rounded to the next highest one one-thousandth of a mill, which, when applied to 95 percent of the estimated state total nonexempt assessed valuation for school purposes, would generate the prescribed aggregate required local effort for that year for all districts. The commissioner shall certify to each district school board the millage rate, computed as prescribed in this subparagraph, as the minimum millage rate necessary to provide the district required local effort for that year.

2. The Department of Revenue shall, upon receipt of the official final tax roll from each of the property appraisers, certify to the commissioner the total assessed valuation of nonexempt property for school purposes in each school district, subject to the provisions of paragraph (c).

As revised data are received from property appraisers, the Department of Revenue shall amend the certification of the official final tax roll. The Commissioner of Education, in administering the provisions of paragraph (6)(b), shall use the most recent tax roll data for the appropriate year. For the purpose of this subparagraph, the official final tax roll shall be the tax roll on which the tax bills are computed and mailed to the taxpayers.

(b) Equalization of required local effort.—

1. The Department of Revenue shall include with its certifications provided pursuant to paragraph (a) its most recent determination of the assessment level of the prior year's assessment roll for each county and for the state as a whole.

2. The commissioner shall adjust the required local effort millage of each district for the current year, computed pursuant to paragraph (a), as follows:

a. The equalization factor for the prior year's assessment roll of each district shall be multiplied by 95 percent of the nonexempt assessed valuation for school purposes shown on that roll and by the prior year's required local-effort millage, exclusive of any equalization adjustment made pursuant to this paragraph. The dollar amount so computed shall be the additional required local effort for equalization for the current year.

b. Such equalization factor shall be computed as the quotient of the prior year's assessment level of the state as a whole divided by the prior year's assessment level of the county, from which quotient shall be subtracted 1.

c. The dollar amount of additional required local effort for equalization for each district shall be converted to a millage rate, based on 95 percent of the current year's nonexempt assessed valuation for that district, and added to the required local effort millage determined pursuant to paragraph (a).

3. Notwithstanding the limitations imposed pursuant to s. 236.25(1), the total required local-effort millage, including additional required local effort for equalization, shall be an amount not to exceed 10 minus the maximum millage allowed as nonvoted discretionary millage, exclusive of millage authorized pursuant to s. 236.25(2). Nothing herein shall be construed to allow a millage in excess of that authorized in s. 9, Art. VII of the State Constitution.

4. For the purposes of this chapter, the term "assessment level" means the value-weighted mean assessment ratio for the county or state as a whole, as determined pursuant to s. 195.096, or as subsequently adjusted. In the event a court has adjudicated that the department failed to establish an accurate estimate of an assessment level of a county and recomputation resulting in an accurate estimate based upon the evidence before the court was not possible, that county shall be presumed to have an assessment level equal to that of the state as a whole.

5. If, in the prior year, taxes were levied against an interim assessment roll pursuant to s. 193.1145, the assessment level and prior year's nonexempt assessed valuation used for the purposes of this paragraph shall be those of the interim assessment roll.

(c) Exclusion.—In those instances in which:

1. There is litigation either attacking the authority of the property appraiser to include certain property on the tax assessment roll as taxable property or contesting the assessed value of certain property on the tax assessment roll; and

2. The assessed value of the property in contest involves more than 10 percent of the total nonexempt assessment roll;

the assessed value of the property in contest shall be excluded from the nonexempt assessed valuation for school purposes for purposes of computing the district-required local effort.

(d) Recomputation.—Following final adjudication of any litigation on the basis of which an adjustment in nonexempt valuation was made pursuant to paragraph (c), the department shall recompute the required local effort for each district for each year affected by such adjustments, utilizing nonexempt valuations approved by the court, and shall adjust subsequent allocations to such districts accordingly.

(e) Required adult fees.—

1. Fees for all nonexempt students as defined in s. 230.645 shall be added to and made a part of the required local effort of each district.

2. Each district shall report the total fee exempt, nonfee exempt, fee waived, fee deferred, and nonresident full-time equivalent student enrollment for each adult program. Districts shall also report the total amount of fees collected from students as required by s. 230.645. The value of in-kind services accepted in lieu of fees shall not be added to and made a part of the total fee collection amount reported by the district.

3. Each district's total required local effort fee amount shall be calculated in the following manner:

a. A total resident fee amount shall be calculated for each district by summing the nonfee exempt full-time equivalent enrollment for each adult program and by subtracting from that sum the district's nonresident full-time equivalent enrollment and by multiplying the difference by the fee amount specified in the General Appropriations Act.

b. A total nonresident fee amount shall be calculated for each district by multiplying each district's nonresident full-time equivalent enrollment by a number that is twice the fee amount specified in the General Appropriations Act.

c. A total unadjusted required local effort fee amount shall be calculated for each district by adding the resident fee amount calculated in sub-subparagraph a. to the nonresident fee amount calculated in sub-subparagraph b.

d. A fee collection credit amount shall be calculated for each district by adding the total amount of fees collected by the district to the district's maximum fee waiver amount as defined in s. 230.645.

e. Each district's total unadjusted required local fee amount calculated in sub-subparagraph c. shall be subtracted from its total fee collection credit amount calculated in sub-subparagraph d. If the difference is a positive number, the district's required fee adjustment amount shall be set to zero. If the difference is a negative number, a required fee adjustment amount shall be calculated by dividing the absolute value of such difference by the fee amount specified in the General Appropriations Act and multiplying the result, rounded to two decimal places, by the average of all program weights for adult programs for the year as specified in the General Appropriations Act, rounded to three decimal places, and by the base student allocation defined in the General Appropriations Act.

f. A total required local effort fee amount shall be calculated for each district by adding the unadjusted fee amount calculated in sub-subparagraph c. to the fee adjustment amount calculated in sub-subparagraph e.

Section 11. Section 229.13, Florida Statutes, is created to read:

229.13 Registration of adult students.—

(1) Beginning with the 1987-1988 school year, each school district and community college shall be required to collect and maintain on file the following information for each student enrolled in an adult basic, adult high school, adult secondary, vocational preparatory, college preparatory, postsecondary adult vocational, or vocational supplemental course funded through the Florida Education Finance Program or the Community College Program Fund.

(a) The name, address, telephone number, date of birth, and social security number of the student.

(b) The student's permanent address.

(c) The date which the student graduated from high school or received a high school equivalency diploma.

(d) The course title and number, if any, as they appear in the State Course Code Directory or common course numbering system.

(e) Any course title used to advertise or disseminate information about the course other than the course title which appears in the State Course Code Directory or common course numbering system.

(f) The reason that the student is enrolling in the course, which shall include indication as to whether the student is taking the course for any of the following reasons:

1. To achieve basic literacy;

2. To earn a high school diploma or its equivalent;
3. To enhance basic skills in order to pursue postsecondary education;
4. To acquire entry level occupational skills necessary to obtain employment;
5. To enhance occupational skills necessary to maintain current employment or retrain for a new occupation; or
6. For personal enrichment or recreation.

(g) Indication of whether the student is employed or unemployed. Students who are employed shall be requested to indicate their occupation. Students who are enrolling in vocational supplemental courses shall be requested to indicate the occupation for which they are training.

(h) Total fees assessed or indication that fees have been waived or provided through an in-kind contribution.

(i) Indication of how the student learned about the course.

(2) School districts and community colleges shall be required to collect and maintain on file the following information when registering students for any course funded through the Community Instructional Services categorical fund:

(a) The name, address, telephone number, and date of birth of the student.

(b) The student's permanent address.

(c) The course title.

(d) Hourly and total fees assessed, if any.

(3) Students shall not be required to register for community instructional services activities which are 3 hours or less in duration.

(4) Each school district and community college shall submit sample registration forms and related data collection documents to the Department of Education for review and approval. The department shall approve for use only those registration forms and related documents which include all of the data elements described in subsections (1) and (2). To the maximum extent possible, school districts and community colleges are encouraged to use or modify registration forms and data collection documents and procedures currently in use to comply with the requirements of this section.

(5) Registration forms and related data collection documents are official audit documents. School districts and community colleges shall maintain registration forms and related data collection documents in the form of hard copies of computer tapes for a period of 3 years or until the completion of all audits for the period during which the course or activity is provided, whichever occurs later.

(6) Each school district and community college shall maintain on file a listing of the location at which any course offered to adults which is funded through the Florida Education Finance Program or Community College Program Fund is provided. This information shall be maintained on file for a period of 3 years or until the completion of all audits for the period during which the course is offered, whichever occurs later.

Section 12. Subsections (3) and (4) of section 229.565, Florida Statutes, are amended to read:

229.565 Educational evaluation procedures.—

(3) EDUCATION EVALUATION.—The Commissioner of Education shall periodically examine and evaluate procedures, records, and programs in each school district and community college to determine compliance with law and rules established by the state board. Such evaluations shall include, but not be limited to:

(a) Reported full-time equivalent membership in each program category.

(b) The organization of all special programs for exceptional students to ensure compliance with law and the criteria established and approved by the state board pursuant to the provisions of this section and s. ss. 230.23(4)(m) and 233.0682.

(c) The organization of all vocational education programs to ensure compliance with law and the criteria established and approved by the

state board pursuant to the provisions of this section and ss. 229.551(3)(g), 240.355, and 233.0682. The criteria for qualification of individual programs and courses as vocational education shall be annually adopted by the state board and shall be published by the commissioner in a document titled, "Vocational Education Program Course Standards," with a designation of the effective date for the criteria.

(d) The organization of all vocational education to ensure that the capability exists in each instructional program for each student who is enrolled to achieve the intended student outcomes as stated in the "Vocational Education Program Course Standards." Capability shall be defined as resource requirements which include qualified instructors, time, facilities, equipment, and supplies.

(e) The procedures for registration and placement of students in adult basic, adult high school, adult secondary, vocational preparatory, college preparatory, vocational job preparatory, vocational supplemental, community instructional services, and recreation and leisure activities to determine that the district or college is following the procedures for placement established by the district school board or community college board of trustees and that the procedures are compatible with definitions and criteria established by the State Board of Education and s. 229.13.

(f)(e) The procedures for identification and placement of students in educational alternative programs for students who are disruptive or unsuccessful in a normal school environment and for diagnosis and placement of students in special programs for exceptional students, to determine that the district is following the criteria for placement established by rules of the state board and the procedures for placement established by that district school board.

(g)(d) Procedures for screening, identification, and assignment of instructional strategies of the Florida Primary Education Program, or an approved alternative program as provided in s. 230.2312, and any other provisions of the program.

(h)(e) An evaluation of the standards by which the school district evaluates basic and special programs for quality, efficiency, and effectiveness.

(i)(f) Determination of the ratio of administrators to teachers in each school district, which information shall be reported to the Legislature as a part of the commissioner's report required by s. 229.575(1).

(j)(g) Compliance of school districts with the cost accounting and reporting requirements of s. 237.34 and the extent to which the percentage expenditure requirements therein are being met.

(k)(h) Clearly defined data collection and documentation requirements, including specifications of which records and information need to be kept and how long the records need to be retained. The information and documentation needs for evaluation shall be presented to the school districts and community colleges and explained well in advance of the actual audit date.

(l)(i) Determination of school district achievement in meeting the performance standards specified in s. 232.2454(1).

(4) ASSISTANCE AND ADJUSTMENTS.—If discrepancies or deficiencies are found, the Commissioner of Education shall provide information and assistance to the superintendent and personnel of the district or to the president and staff of the community college in correcting the cited deficiencies. Priority for such assistance shall be given to providing the most deficient individual school programs with research-based problem identification strategies and alternatives to improve student performance. Such alternatives shall be systematically drawn from research related to school effectiveness, teacher effectiveness, or management effectiveness. If it is determined that the approved criteria and procedures for the placement of students and the conduct of programs have not been followed by the district or community college, appropriate adjustments in the district's or college's full-time equivalent student count for that district shall be made. Such adjustments shall be in an amount at least equal to the number of full-time equivalent students who have been misclassified or who have been reported in a program or course being operated in a manner which is inconsistent with law or approved criteria and procedures.—and Any excess funds shall be deducted from subsequent allocations of state funds to that district or college. The department may impose additional fines or penalties for any discrepancies or deficiencies determined by the department to be of an intentional nature.

Section 13. The State Board of Education may adopt rules to implement this act.

(Renumber subsequent section.)

Amendment 3—On page 20, between lines 10 and 11, insert:

Section 9. Subsection (1) of section 232.2454, Florida Statutes, is amended to read:

232.2454 Uniform student performance standards, instruments, and assessment procedures.—

(1) The State Board of Education shall adopt rules to provide for the development and periodic revision of uniform, statewide student performance standards, instruments, and assessment procedures to measure public-school-student performance in each major subject area or major area of study approved by the state board; *provided that vocational education shall be one of the areas of study approved by the state board.* Such rules shall be adopted in time to ensure that such assessments and related reporting of results occur for all approved areas no later than the fall of the 1989-1990 school year. However, initial assessments shall not occur until the spring of the 1988-1989 school year, and initial reporting shall not occur until the fall of the 1989-1990 school year. Such rules shall include, but are not limited to, provisions for information which permits numerical rankings and other analyses which consider socioeconomic composition, aptitude, and historical student achievement.

(Renumber subsequent section.)

Senator Castor moved the following amendments which were adopted:

Amendment 4—On page 18, strike all of lines 13-15 and insert:

d. *Dropout prevention* ~~Alternative education~~ programs provided for those students who were in membership in teenage parent, substance abuse, or youth service programs as defined in s. 230.2316 and are in need of such additional instruction ~~Department of Health and Rehabilitative Services residential care facilities;~~

Amendment 5—On page 18, strike all of lines 26-30 and insert:

g. *Dropout prevention* ~~Basic~~ programs provided of educational alternatives for those students who were in membership in an educational alternative or disciplinary program as defined in s. 230.2316 for all of the last 15 ~~30~~ days of the 180-day term or a total of 30 days within the 180 day term and are in need of such additional instruction;

Amendment 6—On page 9, strike all of lines 15-26

Amendment 7—On page 10, lines 20-31 and on page 11, lines 1-3, strike all of paragraph (d) and insert:

(d) Districts may modify courses listed in the State Course Code Directory for the purpose of providing dropout prevention programs pursuant to the provisions of this section. Such modifications must be approved by the commissioner and may include lengthening or shortening of the time allocated for in-class study, alternate methods of assessment of student performance, and the integration of curriculum frameworks or student performance standards to product interdisciplinary units of instruction.

Amendment 8—On page 20, between lines 10 and 11, insert:

Section 9. Vocational Inservice and Business Exchange Program; review and selection committee; trust fund.—

(1) The Legislature recognizes that the workplace is undergoing rapid and continual change. The Legislature further recognizes that the quality of the vocational education programs in this state is directly dependent upon the extent to which vocational educators possess technical knowledge and skills commensurate with the innovations and rapid technological changes occurring in the labor market. The Legislature finds that an effective means for assuring the competency and currency of vocational educators is by affording them opportunities to enhance their knowledge and skills through periodic work experiences and training in business and industry.

(2) There is established the Vocational Inservice and Business Exchange Program for the purpose of providing staff development grants to vocational educators while they are working in private-sector or public-sector occupations related to the vocational fields in which they are assigned or certified. The State Board of Education shall adopt rules to implement the program and the program will be administered by the Office of Student Financial Aid of the Department of Education.

(3) There is established a Vocational Inservice and Business Exchange Review and Selection Committee.

(a) The committee is comprised of one representative from each of the following entities:

1. The Division of Vocational, Adult, and Community Education of the Department of Education.
2. The Division of Community Colleges of the Department of Education.
3. The Florida High Technology and Industry Council.
4. The Office of the Commissioner of Education.
5. The Postsecondary Education Planning Commission.
6. The Florida Education and Industry Coalition of the Florida Chamber of Commerce.
7. The Department of Commerce.
8. The Department of Agriculture and Consumer Services.
9. The Florida Vocational Association.

(b) The Commissioner of Education shall select members for appointment to the committee from among persons nominated by each of the entities listed in paragraph (a). The term of appointment of any member of the committee may not exceed 4 years.

(c) The committee is responsible for reviewing and approving grant application procedures developed by the Department of Education pursuant to this section and for selecting persons to receive staff development inservice grants from among persons who have submitted applications to the Office of Student Financial Aid pursuant to this section.

(4) An applicant for a staff development inservice grant under the Vocational Inservice and Business Exchange Program may be awarded a grant in an amount equal to the applicant's regular rate of pay, plus benefits, for a period of time not to exceed one-half of a contract year of school or college employment. The training may be taken at any time during the calendar year. A participant will not have a break in creditable or continuous service or employment for the period of time in which he participates in the program.

(5)(a) Any vocational educator who is employed full time by a public school or community college in this state is eligible to apply for participation in the Vocational Inservice and Business Exchange Program.

(b) An applicant is solely responsible for soliciting the cooperation of an employer in the business or industry in which the applicant desires to work during a training leave.

(c) An applicant must agree to return to employment in a teaching position in a public school or community college within this state and be employed in such position for at least 2 years after completion of the training. Any grant recipient who fails to return to employment in a teaching position in a public school or community college in this state upon completion of the training must repay all salary and the cost of benefits which accrued to him during the training.

(6) An applicant for a staff development inservice grant must apply for the grant on a form provided for this purpose by the Office of Student Financial Aid. The application form will require the applicant to provide at least the following information and signatures:

- (a) The applicant's name;
- (b) The name of the school district or community college district which employs the applicant;
- (c) The name and address of the business or industrial employer for whom the applicant will be working during the training;
- (d) The signature and title of a representative of the employer for whom the applicant will be working during the training;
- (e) A brief description of the duties and responsibilities in which the applicant will be engaged during the training;
- (f) The percentage of the applicant's salary, if any, that will be paid by the business or industrial employer;

(g) A statement of whether an employee of the business or industrial employer will be provided in exchange to replace the applicant in the applicant's teaching capacity during the training;

(h) A statement of the nature of the relationship between the business or industry in which the applicant will be working and the economic development goals of the geographic region where the applicant will be working;

(i) The signature and approval of the superintendent or the community college president, as appropriate, or his designee, stating that the superintendent or president:

1. Agrees to release the applicant from the applicant's instructional responsibilities during the training;

2. Considers the business or industry in which the applicant will be working during the training to be directly related to the applicant's field or fields of assignment or certification; and

3. Agrees to employ an employee of the business or industrial employer on the basis of an exchange, if appropriate; and

(j) Any other information that the Department of Education considers necessary.

(7)(a) In order to be awarded a staff development inservice grant, an applicant must meet one or more of the following criteria:

1. The business or industrial employer for whom the applicant will be working during the training has agreed to provide an employee in exchange to replace the applicant in the applicant's teaching capacity during the training.

2. The applicant teaches in a vocational field that is related to a business or industry that is subject to frequent technological change or innovation.

3. The business or industrial employer for whom the applicant will be working during the training has agreed to pay at least 25 percent of the applicant's salary during the training.

4. The applicant will be working in a business or industry that is related to the economic development goals of the geographic region where the applicant will be working.

(b) When awarding staff development inservice grants, the Vocational Inservice and Business Exchange Review and Selection Committee shall take into consideration the geographical distribution of the grant recipients.

(8) A business or industry employee provided in an exchange under the provisions of this section may be employed in an instructional capacity irrespective of any applicable certification requirements.

(9) Successful completion of a staff development inservice training grant pursuant to this section may be used to satisfy applicable college course credit or inservice training requirements for extension of a certificate pursuant to rules of the State Board of Education.

(10) There is created the Vocational Inservice and Business Exchange Trust Fund. The Comptroller shall authorize expenditures from this fund upon receipt of vouchers approved by the Department of Education for the Vocational Inservice and Business Exchange Program established by this section. The unencumbered balance of the fund at the end of any fiscal year shall remain in the fund and be available for the program in future years.

Section 10. Paragraph (h) of subsection (1) of section 236.081, Florida Statutes, is amended to read:

236.081 Funds for operation of schools.—The annual allocation from the Florida Education Finance Program to each district for operation of schools shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(h) Calculation of full-time equivalent membership with respect to instruction from community colleges or universities, instruction outside required number of school days, or instruction in home economics or exploratory vocational education.—

1. In those academic programs, which are not remedial in nature, through which a student may earn credit towards both a high school diploma and an associate or baccalaureate degree, the student instruction time may be included in the count of full-time equivalent student memberships for basic programs for grades 9 through 12. Students enrolled in such courses may be counted as full-time equivalent students by community colleges and universities offering such instruction. Such instruction may be provided by either a community college or university, but it must take place at the high school site unless the Commissioner of Education approves providing the instruction at the community college or university site because technical facilities are not available at the high school site or because there are fewer than 15 students from the high school who wish to be enrolled in a course. Such instruction may not include physical education. A student receiving instruction under the provisions of this subparagraph may not be charged registration, matriculation, or tuition fees, and community colleges and universities shall waive all such fees.

2. Students in grades 9 through 12 may be counted as full-time equivalent students for instruction provided outside the required number of school days if such instruction counts as credit toward a high school diploma.

3. Students in grades K through 12 who are enrolled for more than six semesters in practical arts home economics courses as defined in s. 228.041(22)(d) may not be counted as full-time equivalent students for this instruction.

4. Students in grades 7 through 12 who are enrolled for more than four semesters in exploratory vocational education may not be counted as full-time equivalent students for this instruction.

5. ~~Effective for the 1985-1986 school year and thereafter,~~ District pupil progression plans shall provide for the substitution of vocational courses for the nonelective courses required for high school graduation pursuant to s. 232.246. A student in grades 9 through 12 who enrolls in and satisfactorily completes at least two-thirds of a job preparatory program may substitute credit for a portion of the required four credits in English, three credits in mathematics, and three credits in science. The credit substituted for English, mathematics, or science earned through the vocational job preparatory program shall be on a curriculum equivalency basis as provided for in the State Course Code Directory. Upon adoption of curriculum frameworks for vocational courses pursuant to s. 233.011, the State Board of Education shall authorize by rule vocational course substitutions not to exceed two credits in each of the nonelective academic subject areas of English, mathematics, and science. School districts shall provide for vocational course substitutions not to exceed two credits in each of the nonelective academic subject areas of English, mathematics, and science, upon adoption of vocational student performance standards by the school board pursuant to s. 232.2454. A vocational program which has been used as a substitute for a nonelective academic credit in one subject area may not be used as a substitute for any other subject area. *The Department of Education shall develop curriculum frameworks for pretechnical vocational courses that are comparable in content and intended student outcomes to English, mathematics, and science courses required for high school graduation. Beginning with the 1989-1990 school year, the State Course Code Directory shall include pretechnical vocational courses that may be used by any student in grades 9 through 12 to satisfy the English, mathematics, and science credit requirements for high school graduation.* The one-half credit in practical arts or exploratory vocational education required for high school graduation pursuant to s. 232.246(1)(b)8. shall be funded as a vocational education course.

(i) Calculation of additional full-time equivalent membership based on college board advanced placement scores of students.—A value of 0.3 full-time equivalent student membership shall be calculated for each student in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination for the prior year and added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year.

Section 11. By March 1, 1987, the Department of Education shall submit a report to the Legislature which provides an alternative to the vocational program funding structure provided for in section 236.081(1)(c)4. and 5. Florida Statutes. The alternative funding structure must consolidate existing vocational program areas into no fewer than three funding levels but no more than six funding levels. Each funding level must encompass a specified range of costs. Each vocational course must be

assigned to one of these funding levels according to the cost of delivering the course. The department shall clearly specify in the report the range of costs encompassed by each funding level to be established, the method to be used to establish program costs, the courses to be assigned to each funding level, and the criteria to be used to change the assignment of a course from one funding level to another.

(Renumber subsequent section.)

Amendment 9—On page 20, between lines 10 and 11, insert:

Section 9. Section 228.061, Florida Statutes, is amended to read:

228.061 Other public schools; nursery schools, *school-age child care programs*, special schools and courses.—The public schools of Florida may, in addition to the schools prescribed in s. 228.051, include nursery schools, *school-age child care programs*, special schools, courses and classes as authorized below:

(1) **NURSERY SCHOOLS.**—Nursery schools shall comprise classes for children who have attained the ages prescribed by s. 232.05 and may be established in the discretion of the school board where sufficient children of these ages are available to make possible an organization of at least 20 such children at any school center. Such schools or classes shall be supported and maintained from district taxes, from such funds supplemented by tuition charges, or from funds from federal or other lawful sources, exclusive of state sources.

(2) **SCHOOL-AGE CHILD CARE PROGRAMS.**—*School-age child care programs shall consist of educational and recreational programs provided before and after the regular school day and during school holidays to children eligible to attend public schools as provided by ss. 232.01 and 232.04. Such programs shall be supported and maintained from state or district funds, tuition charges, and such funds as may be available from federal or other lawful sources.*

(3)(4) **OTHER SCHOOLS, COURSES, AND CLASSES.**—

(a) There may be established, at the discretion of the school board, other schools, courses, and classes pursuant to law or by regulations of the state board for:

1. Giving instruction in applied arts and sciences;
2. Rehabilitating atypical, dependent, and delinquent children;
3. Promoting the education of adults;
4. Furnishing part-time, evening, and vocational schools and classes;
5. Providing technical or vocational training for persons regardless of age; and
6. Offering other types of instruction of a similar nature.

(b) Such schools, courses, and classes shall be supported by state, district, and federal funds or by any combinations of these funds supplemented by funds from such other lawful sources as may be available, including tuition or matriculation fees as may be authorized by regulations of the state board.

Section 10. Section 229.65, Florida Statutes, is created to read:

229.65 School-age child care incentives program.—

(1) The Legislature recognizes the need for supervision and care of young school children before and after school and on school holidays, when school is not in session but when parents must work. Such care will act as an early intervention strategy to help prevent child abuse, accidents, emotional trauma, and delinquency to which unsupervised children are vulnerable. The purpose of the school-age child care incentives program is to encourage the design and implementation of model programs to provide such care in an environment beneficial to child development and to provide incentives to public schools and other public and private agencies for the establishment of these programs.

(2) There is hereby created the school-age child care incentives program, which shall be funded pursuant to subsection (6) and administered by the Commissioner of Education in cooperation with the school districts and other appropriate organizations and agencies. School-age child care services may be implemented and conducted in any public school pursuant to a proposal developed and approved pursuant to subsection (3).

(3) Each district school board, or each principal through the district school board, may submit to the commissioner for approval a proposal for implementing, contracting, or enhancing an ongoing program to conduct school-age child care. Each proposal shall be developed with the assistance of the district and school advisory committees. Proposals for the 1986-1987 school year shall be submitted by September 1, 1986, and proposals for the 1987-1988 school year shall be submitted by May 1, 1987.

(a) To be considered for approval each proposal shall include:

1. The projected number of students to be served;
2. A description of the administrative or organizational structure of the program, including a statement of who shall be responsible for program planning and various aspects of program operation;
3. A description of program content;
4. Personnel qualifications and standards, including plans to provide for background checks and fingerprinting;
5. The planned staff-child ratio;
6. A description of all school facilities which will be available to program participants;
7. The days and hours of operation;
8. The extent to which federal or other funds will be used to support the program;
9. The estimated program budget and fees;
10. Provisions for food preparation and service;
11. Written operating procedures for distribution to parents, including policies regarding hours, fees, illness, holidays, and refunds; and
12. Such other information and provisions as shall be required by the commissioner.

(b) Each proposal may include:

1. Provisions for transportation;
2. Staff training plans and materials;
3. Provisions for participation of teachers, administrators, parents, and children in program planning and evaluation;
4. Coordination with other community-based and social services including hot-lines, volunteers, self-care skills courses and publications, and block home programs;
5. Plans for studies to evaluate the effects of program participation on a child's behavior, growth and development, and scholastic performance; and
6. Employment of students in the college career work experience program pursuant to s. 240.60 and students in secondary and postsecondary job preparatory vocational programs designed to train persons for employment as day care providers.

(4) Funding priority shall be given to proposals which:

- (a) Provide services to areas of the state underserved by before and after school child care programs;
- (b) Provide care to children in elementary schools;
- (c) Provide accessibility to children from low-income families through use of a sliding fee scale;
- (d) Have the greatest potential for statewide implementation;
- (e) Provide care to children with special needs;
- (f) Provide varied, developmentally appropriate program content; and
- (g) Provide for maximum utilization of all available funding sources and community resources.

(5) A school district or school principal through the district school board may contract with private child care services for the provision of school-age child care programs.

(6) The Department of Education shall review for approval all program proposals submitted by school districts. School districts shall be notified of approval by October 1, 1986, for the 1986-1987 school year, and by July 1, 1987, for the 1987-1988 school year. For each proposal approved, the commissioner shall authorize distribution of funds up to 75 percent of the estimated cost of program operation as contained in the proposal, less funds from other nonfee sources, from funds available to the Department of Education for the school-age child care incentives program for the first year of operation, and up to 50 percent for the second year of operation.

(7) In order to promote diversity and maximum replicability, the Department of Education shall approve at least three proposals, one from a district with up to 5,000 students, one from a district with 5,001 to 25,000 students, and one from a district with over 25,000 students.

(8) The Department of Education shall develop a "request for proposal" to include procedures and criteria for the competitive acceptance of proposals to establish and operate a statewide clearinghouse for school-age child care programs. To be considered for approval, the proposal shall be submitted by a private, nonprofit organization. The clearinghouse shall:

(a) Provide information and referral on school-age child care programs.

(b) Provide technical assistance and training to local school districts.

(c) Conduct studies and analyze data.

(d) Develop plans with cooperation from the Department of Health and Rehabilitative Services and the Department of Education to address the needs of children left unsupervised before and after school.

(e) Facilitate the establishment of local programs and policies, and procedures for such programs.

(f) Establish a seven-member advisory council, consisting of two local representatives of school districts, two representatives of the Department of Health and Rehabilitative Services, two providers of school-age child care, and one parent. The clearinghouse shall establish procedures for the appointment of members and the term of appointments. The advisory council shall review and make recommendations regarding the activities of the clearinghouse in achieving the intent of this section. Members shall be entitled to per diem and travel expenses as provided in s. 112.061.

(9) The Department of Health and Rehabilitative Services is authorized to establish other rules and policy provisions which are necessary to achieve the objectives of this section.

(10) An annual report shall be required from each program describing overall program operations, program expenditures, the number of children served, program components which proved most successful, and other information as required by the commissioner.

(11) The clearinghouse shall review each program's annual report and make available to school districts, the Department of Education, and the Department of Health and Rehabilitative Services information on successful program strategies and components.

(12) By March 1, 1988, the Department of Education shall make recommendations to the Legislature concerning the desirability and cost of licensing school-age child care programs operated by school districts and of implementing a school-age child care program on a statewide basis.

(13) The State Board of Education shall adopt rules to implement this section.

(Renumber subsequent section.)

Amendment 10—In title, on page 2, line 13, following the semicolon (;) insert: establishing the Vocational Inservice and Business Exchange Program; providing for administration of the program; providing for the awarding of staff development grants to vocational educators to gain work experience in business and industry; providing eligibility criteria for the receipt of such grants; providing a grant application procedure; creating the Vocational Inservice and Business Exchange Review and Selection Committee; providing for committee membership; providing for duties of the committee; authorizing the employment of business and industry employees in exchange; establishing the Vocational Inservice and Business Exchange Trust Fund; providing for use of moneys of the fund; amending s. 236.081, F.S.; providing that students who complete

two-thirds of a job preparatory vocational program may substitute credit for a portion of the academic credits required for high school graduation; requiring the Department of Education to develop pretechnical vocational courses that may be substituted for the required credits in English, mathematics, and science; requiring the State Course Code Directory to include such pretechnical vocational courses, beginning with the 1989-1990 school year; directing the Department of Education to submit an alternative vocational program funding structure to the Legislature by March 1, 1987;

Senator Meek moved the following amendment which was adopted:

Amendment 11—In title, on page 1, line 2, after the semicolon (;) insert: establishing the Learning Development and Evaluation Center for learning disabled students at Florida Agricultural and Mechanical University; providing criteria for program services and for program participants' qualifications; providing services for postsecondary and secondary students; requiring reports on program effectiveness; providing for funding;

Senator Peterson moved the following amendments which were adopted:

Amendment 12—In title, on page 2, line 13, after the semicolon (;) insert: amending s. 232.2454, F.S.; requiring the State Board of Education to identify vocational education as an area for which assessment procedures to measure student performance are to be developed;

Amendment 13—In title, on page 2, line 13, after the semicolon (;) insert: amending s. 230.645, F.S.; providing exemptions from the payment of student fees for specified students; requiring the payment of fees for all students not granted exemptions; providing for the establishment of student fees in the General Appropriations Act; authorizing school districts to waive fees; providing for limitation of fee waivers in the General Appropriations Act; amending s. 236.081, F.S.; changing the method by which fees are calculated as a part of the district required local effort; creating s. 229.13, F.S.; amending s. 229.565, F.S.; requiring school districts and community colleges to collect specified information when registering students; providing for approval of registration forms and related documents; providing for the evaluation of public school and community college programs; providing for the adjustment of funding allocations and penalties in the event of audit discrepancies; providing for rules;

On motion by Senator Castor, by two-thirds vote CS for SB 450 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

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|-----------------|-----------|-----------|-----------|
| Mr. President | Frank | Johnson | Neal |
| Barron | Girardeau | Kiser | Peterson |
| Beard | Gordon | Langley | Plummer |
| Castor | Grant | Malchon | Scott |
| Childers, D. | Grizzle | Mann | Stuart |
| Childers, W. D. | Hair | Margolis | Thurman |
| Crenshaw | Hill | McPherson | Vogt |
| Deratany | Jenne | Meek | Weinstein |
| Dunn | Jennings | Myers | |

Nays—None

Vote after roll call:

Yea—Gersten, Kirkpatrick

SB 401—A bill to be entitled An act relating to campaign financing; amending s. 106.141, F.S.; revising requirements regarding disposition of surplus funds by candidates; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil recommended the following amendment which was moved by Senator Deratany and adopted:

Amendment 1—On page 4, strike all of line 3, and insert:

Section 2. This act shall take effect July 1, 1986.

On motion by Senator Deratany, by two-thirds vote SB 401 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

| | | | |
|-----------------|-----------|-----------|-----------|
| Mr. President | Frank | Langley | Plummer |
| Barron | Girardeau | Malchon | Scott |
| Beard | Grant | Mann | Stuart |
| Castor | Hair | Margolis | Thomas |
| Childers, D. | Hill | McPherson | Thurman |
| Childers, W. D. | Jenne | Meek | Vogt |
| Crenshaw | Jennings | Myers | Weinstein |
| Deratany | Johnson | Neal | |
| Dunn | Kiser | Peterson | |

Nays—None

Vote after roll call:

Yea—Gersten, Kirkpatrick

Senator Stuart moved that the rules be waived and the following bill be introduced notwithstanding the fact that the final day had passed for introduction of bills:

A bill to be entitled An act relating to Water Management District Milage.

The motion was referred to the Committee on Rules and Calendar.

On motion by Senator Frank, by two-thirds vote HB 558 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Frank, by unanimous consent—

HB 558—A bill to be entitled An act relating to acupuncture; reviving and readopting, notwithstanding the Regulatory Sunset Act, chapter 457, F.S.; amending ss. 457.101, 457.102, 457.103, 457.104, 457.105, 457.107, 457.109, 457.116, and 457.118, F.S.; creating ss. 457.108, 457.1085 and 457.114, F.S.; providing intent; providing definitions; providing terms for members of the Board of Acupuncture; specifying certification qualifications and fees; providing for biennial renewal of certificates; providing a fee; providing for board approval of continuing education programs; providing a fee; providing for inactive status; providing for reactivation of inactive certificates; providing for fees; providing for infection control; providing grounds for disciplinary actions by the board; providing for itemized patient billing; providing prohibited acts and a penalty therefor; providing for effect of chapter on other health care practices; repealing s. 457.119, F.S., relating to a saving clause; providing for legislative review and repeal; providing effective dates.

—was taken up out of order and read the second time by title.

Senator Frank moved the following amendments which were adopted:

Amendment 1—On page 11, strike all of lines 16-22.

Amendment 2—On page 12, line 21, strike "Section 457.119" and insert: Sections 457.111 and 457.119

On motion by Senator Frank, by two-thirds vote HB 558 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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|-----------------|-----------|-----------|-----------|
| Mr. President | Frank | Kiser | Peterson |
| Barron | Girardeau | Langley | Plummer |
| Beard | Gordon | Malchon | Scott |
| Castor | Grant | Mann | Stuart |
| Childers, D. | Grizzle | Margolis | Thomas |
| Childers, W. D. | Hair | McPherson | Thurman |
| Crenshaw | Hill | Meek | Vogt |
| Deratany | Jennings | Myers | Weinstein |
| Dunn | Johnson | Neal | |

Nays—None

Vote after roll call:

Yea—Gersten, Jenne, Kirkpatrick

On motions by Senator Frank, by two-thirds vote HB 1299 was withdrawn from the Committees on Economic, Community and Consumer Affairs and Appropriations.

On motion by Senator Frank, by unanimous consent—

HB 1299—A bill to be entitled An act relating to pilots, piloting, and pilotage; amending s. 310.002, F.S., providing definitions; amending s. 310.061, F.S.; deleting the limitations on the number of pilots at specified ports; authorizing cross licensing between ports; amending s. 310.071, F.S.; providing for qualifications for applicants for certification as a deputy pilot; creating s. 310.073, F.S.; providing for qualifications for applicants for a license as a state pilot; creating s. 310.075, F.S.; providing for a deputy pilot training program; amending s. 310.101, F.S.; providing grounds for disciplinary action; providing penalties; amending s. 310.111, F.S., providing for marine incident reports; amending s. 310.115, F.S.; providing for the use of electronic navigation protection equipment under certain circumstances; creating s. 310.146, F.S., exempting certain vessels from pilotage requirements; saving ch. 310, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—was taken up out of order. On motions by Senator Frank, by two-thirds vote HB 1299 was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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|-----------------|-----------|-------------|-----------|
| Mr. President | Frank | Kirkpatrick | Plummer |
| Barron | Girardeau | Kiser | Scott |
| Beard | Grant | Langley | Stuart |
| Castor | Grizzle | Malchon | Thomas |
| Childers, D. | Hair | Margolis | Thurman |
| Childers, W. D. | Hill | McPherson | Vogt |
| Crenshaw | Jenne | Meek | Weinstein |
| Deratany | Jennings | Myers | |
| Dunn | Johnson | Neal | |

Nays—None

Vote after roll call:

Yea—Gersten, Peterson

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Jenne, by two-thirds vote CS for SB 1008 was withdrawn from the Committees on Commerce and Economic, Community and Consumer Affairs.

On motion by Senator Jenne, by two-thirds vote HB 1034 was withdrawn from the Committee on Natural Resources and Conservation.

On motions by Senator Jenne, by two-thirds vote CS for SB 1227, CS for SB 511 and CS for SB 758 were withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Jenne, by two-thirds vote CS for SB 864, CS for SB 644, SB 1173 and SB 63 were added to the special order calendar for Wednesday, June 4.

On motion by Senator Jenne, the following bills were placed on the local bill calendar for Thursday, June 5: Senate Bills 1277, 1327, 1335; House Bills 340, 358, 461, 470, 526, 685, 941, 960, 961, 967, 969, 975, 998, 1003, 1038, 1045, 1065, 1067, 1119, 1141, 1144, 1147, 1148, 1158 and 1252.

On motions by Senator Kirkpatrick, by two-thirds vote Senate Bills 63, 232, 263, 673 and CS for SB 533 and CS for SB 787 were withdrawn from the Committee on Appropriations.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 2 was corrected and approved.

RECESS

On motion by Senator Jenne, the Senate recessed at 4:41 p.m. to reconvene at 10:00 a.m., Wednesday, June 4.